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SOLICITORS' JOURNAL

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CURRENT TOPICS

The Defence of Non-Feasance

THE General Council of the Bar are advocating an amendment of the law so that the defence of non-feasance is abolished. The doctrine of non-feasance is stated as holding that at common law no action will lie against any public authority entrusted with the care and maintenance of highways for damage suffered in consequence of its omission to perform its statutory duty of keeping the highway in repair. In a memorandum the Council explain that the doctrine finds its root in the now absurd proposition that an action for damages could not lie against the unincorporated members of a parish. The Council point out that the doctrine is firmly established and hallowed by long usage, but remains the target of almost universal criticism from every quarter. "Its creation," they say, "occurred in an age when the vast majority of the population used the highway only on foot and the remainder on horse-back or in slow-moving horse-drawn vehicles whilst the skill of modern road building was in its infancy. Its survival has lasted into an age when almost everybody uses the highway daily in some sort of mechanical vehicle, often at high speeds. Moreover, it has subsisted to a time when liability for negligence and nuisance concerning most other activities is both general and clearly defined." The Council draw attention to the fact that the doctrine achieved its first statutory mention in the Highways Act, 1959, s. 298, by which it is acknowledged and preserved. They advocate the abolition of the doctrine by a short enactment containing two clauses, the first prohibiting the defence of non-feasance and the second repealing s. 298 of the 1959 Act. We cannot imagine that any ardent champions in defence of the doctrine will be readily found, even amongst spokesmen of local authorities. We welcome the initiative taken by the General Council in this matter and hope that it will prove feasible for Parliament to take the necessary action at an early date. Meanwhile we look forward to reading the next memorandum to be issued by the General Council containing suggestions for reforming anachronistic laws.

Legal Aid

THE Legal Aid (General) Regulations, 1960 (S.I. 1960 No. 408) were duly laid before Parliament last Friday and come into operation on Monday next, 28th March. They consolidate, with amendments relating to procedure and administration, and add to earlier Legal Aid (General) Regulations from 1950 onwards. They also make provision for legal aid in matters not involving litigation under s. 5 of the Legal Aid and Advice Act, 1949, which section, providing

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for legal aid in negotiation, also comes into force on 28th March under the Legal Aid and Advice Act, 1949 (Commencement No. 8) Order, 1960 (S.I. 1960 No. 407). Half of the regulations in the new Legal Aid (General) Regulations, namely, regs. 2 to 13, include provisions relating to applications for legal aid under s. 5 of the 1949 Act and matters resulting therefrom. The *Law Society's Gazette* of March contains much information about these amendments and extensions of the Legal Aid Scheme upon which we commented in earlier issues at pp. 175 and 196.

The Requisitioned Houses Act, 1960

ONE'S first reaction on reading this Act may well be: "Where have I heard this before?" The Rent Act of 1915 was to continue in force till six months after the then war ended; after several further Acts had been passed, that of 1933 made the date 24th June, 1938, but on 26th May of that year the 1938 Act came into force. The Rent Act, 1957, was followed by the Landlord and Tenant (Temporary Provisions) Act, 1958. It now appears that the hopes on which the Requisitioned Houses and Housing (Amendment) Act, 1955, were based cannot all be fulfilled. That Act provides that all requisitioned houses shall be returned to their owners not later than 31st March, 1960. The new Act authorises the Minister of Housing and Local Government to make orders substituting, in the case of any local authority, a date not later than 31st March, 1961, either as regards all the houses it has requisitioned or as regards some of them; that is to say, particular houses or houses of a particular description may be excepted. Also, such orders may be varied by subsequent orders. The rental compensation is increased by 50 per cent., but the Exchequer contribution towards deficits is to be 25 per cent.; and some important new features are that the arrangement by which occupiers could become statutory tenants (instead of "licensees": *Southgate Borough Council* v. *Watson* [1944] K.B. 541) (s. 4 of the 1955 Act) will not apply, but that the special derequisition on the ground of hardship provision of s. 6 of the 1955 Act is to apply only when vacant possession, and not when sale, is contemplated.

Taken as Red

Two and a half pages of the *Weekly Law Reports* for 18th March are devoted to the case of *Re Langton, deceased; Langton* v. *Lloyds Bank, Ltd.* [1960] 1 W.L.R. 246; p. 231, *ante*, a Court of Appeal decision on a procedural matter of vast importance. The question put shortly, and we do not see any other way of putting it, was whether an action should be dismissed for want of prosecution because a plaintiff in person had delivered an amended statement of claim with the amendments in black and not in red. Those interested in such elegances of jurisprudence will note that the decision went in favour of black. The plaintiff may have been short of red ink but he must by now feel well acquainted with red tape.

Operations on Children

IT appears that many people are disturbed by the scheme advanced by the Sheffield Regional Hospital Board which makes provision for the holding of juvenile courts in hospitals to enable operations on children to take place without the consent of their parents. The board believe that an order made under the Children and Young Persons Act, 1933, committing a child to the care of a local authority gives that body power to consent to an operation against the parents' wishes and they have defined a procedure whereby, on receipt of a telephone call from the hospital concerned, the children's officer would attend at the hospital on behalf of the local authority and the justices' clerk would arrange for a juvenile court to be set up at the hospital itself within the shortest possible time in order that the matter might be placed before it. Of course, this scheme will find little favour with those who, on religious grounds, are opposed to operations and in a letter published in the *Guardian*, 19th March, Mr. G. J. COOK, a justices' clerk's assistant with many years' experience of acting as clerk of the court in juvenile courts, doubts whether the procedure suggested by the board can be "streamlined" into the space of two hours. We trust that all concerned with this proposal will proceed with caution, but the written reply given by the MINISTER OF HEALTH on 21st March, in answer to a question by Dr. DONALD JOHNSON, suggests that he finds no fault with the scheme.

Moving House Justified

A CARDINAL rule for the purpose of sanctioning unemployment benefit under the National Insurance Acts, 1946 to 1959, is that a claimant should not leave his employment, except in very pressing circumstances, unless he has another job awaiting him. To be able to succeed in a claim for this benefit an employee must therefore be prepared to explain his reasons for voluntarily leaving work to the satisfaction of the statutory authorities. In a case recently before the Commissioner of National Insurance, R(U) 31/59, the Commissioner held that the offer of a house of their own to the claimant and his wife, living in two attic rooms with a year-old baby, was a very good reason for the claimant's moving to a new district. As the move meant that he was too far away to continue his employment at his old place of work he was justified in leaving it voluntarily, even though he had no assurance of immediate employment in his new district. This decision could have wide repercussions in the sphere of unemployment benefit claims.

Hope Springs Eternal

TRUSTEES must once more show an occupational quality required of them—that of patience. Their hopes were raised high last December by the publication of the Government's White Paper (Cmnd. 915, summarised in our issue of 8th January, p. 35) outlining their proposals for widening the investment powers of trustees. True, the bus had been missed, for it was unlikely that, having been unable to invest in equities when they were cheap, trustees would wish to switch over in quantity from fixed-interest stocks when ordinary shares stood exceptionally high. However, many trustees relished the opportunity of having their fetters, rusty with age, removed. Now comes the news that the Government cannot make available time during the present Parliamentary session to introduce the necessary legislation. We do not know if this delay indicates a recovery on the equity market in the near future. We should be happy if, though we cannot anticipate that, the Government's thoughts on this subject will have turned themselves into acts by next spring.

CARAVAN SITES AND CONTROL OF DEVELOPMENT BILL

THE Caravan Sites and Control of Development Bill presented to the House of Commons on 8th March makes fresh provision for the licensing and control of caravan sites, but, more important, it provides for the long-awaited amendment of the enforcement provisions of the Town and Country Planning Act, 1947, required to make those provisions really effective.

In the last session of Parliament the Town and Country Planning Act, 1959, became law. It was so entitled, though it was principally concerned with the amendment of the law relating to the assessment of compensation on the compulsory acquisition of land and also contained a substantial Part appropriate to a Local Government Act but had but few provisions truly related to town and country planning. If ever a Bill was concerned with good town and country planning it is surely the new Bill, which bears the cumbersome and inelegant title at the head of this article. Is it too much to hope that when it passes into law it may become the Town and Country Planning Act, 1960?

Nevertheless the Bill is very welcome and the object of this article is briefly to outline its provisions. The provisions amending the enforcement provisions of the 1947 Act are contained in Pt. II of the Bill, but, as these are of more general interest than the caravan site provisions in Pt. I, they will be discussed first.

The present enforcement law

The reader will remember that under s. 23 of the 1947 Act a local planning authority, if they consider it expedient having regard to the provisions of the development plan and to any other material considerations, may serve a notice on the owner and occupier of land requiring the removal of unauthorised buildings or works, the discontinuance of an unauthorised use or compliance with a condition imposed on a planning permission. A notice has to be served within four years of the carrying out of the development or of the failure to comply with the condition, and is required to specify, *inter alia*, the date, not being less than twenty-eight days after service of the notice, on which it is to take effect. By subs. (3) of s. 23 this taking effect can be postponed by the submission by anyone of an application for planning permission to retain the offending development, or by appealing to the local justices, who can under subs. (4) quash the notice if satisfied that permission was granted for the development complained of or that no such permission was required or that the condition has in fact duly been complied with, or can vary the notice if satisfied that its requirements exceed what is necessary for restoring the land to its condition before the development took place or for securing compliance with the condition.

Section 23 having provided the enforcement notice machinery, s. 24 provides the sanctions for failure to comply with a notice. Subsection (1) empowers the authority, where the steps required to be taken by the notice are other than the discontinuance of a use, to enter on the land, take the steps and recover the cost from the owner, who is precluded from disputing the validity of the action on any ground on which he could have appealed under s. 23 (4), and subs. (3) makes it an offence, where the steps required to be taken are the discontinuance of a use or compliance with a condition, to use the land in contravention of the notice.

Defects of the existing law

These provisions have been the subject of much legal argument. Lord Goddard, C.J., himself in 1957 described the 1947 Act as "this somewhat obscure Act . . . on which there are authorities which it is not easy to reconcile one with another." There is quite a line of cases as to whether the justices have power under s. 23 (4) to determine whether or not the acts complained of constitute or involve development (*Keats* v. *London County Council* [1954] 1 W.L.R. 1357, dissented from in *Norris* v. *Edmonton Corporation* [1957] 2 Q.B. 564, but held to be right by the Divisional Court in *Eastbourne Corporation* v. *Fortes Ice Cream Parlour, Ltd.* [1958] 2 W.L.R. 886, whose decision was subsequently reversed by the Court of Appeal. Though leave was given to the corporation to appeal to the House of Lords, the question still remains unresolved there). There is also the question as to whether the justices can quash a notice on the ground that it was served out of time. Where it was out of time because the development took place before 1st July, 1948, and the notice had been served after 1st July, 1951, it was open to them to do so on the ground that no permission was required (*Lincolnshire (Parts of Lindsey) County Council* v. *Wallace Holiday Camp, Ltd.* [1953] 2 Q.B. 178; *East Riding County Council* v. *Park Estate (Bridlington), Ltd.* [1957] A.C. 223). But where the notice was out of time because the development took place after 1st July, 1948, and the notice had not been served within four years, it could not be argued that no permission was required, and it seems probable that the justices have no power to quash in such a case. Then there was the conflict of opinion as to whether a person prosecuted under s. 24 (3) was barred from raising as a defence any ground upon which he could have appealed under s. 23 (4) (the Divisional Court in *Perrins* v. *Perrins* [1951] 2 K.B. 414, held that he was, but seven years later the Court of Appeal expressly dissented from this in *Francis* v. *Yiewsley and West Drayton Urban District Council* [1958] 1 Q.B. 478).

Not only did doubt and uncertainty thus arise, but the provisions in s. 23 for delaying the taking effect of a notice until any planning application or appeal to the justices had been finally decided led in many cases to great delays in enforcement. Further, quite apart from the appeal machinery provided in the Act, the practice grew up of commencing actions in the High Court for declarations that enforcement notices were invalid and of no effect (as, e.g., in *Francis* v. *Yiewsley and West Drayton Urban District Council, supra*). Even when an enforcement notice had finally taken effect, the procedure in some cases did not produce a satisfactory result because of the inadequacy of the fine or otherwise, and the courts had to come to the rescue with the grant of injunctions in Attorney-General relator actions (*A.-G.* v. *Bastow* [1957] 1 Q.B. 514; *A.-G.* v. *Smith* [1958] 3 W.L.R. 81).

The new law

Most, if not all, of these difficulties are to be swept away. The provisions in subss. (3) and (4) of s. 23 about planning applications and appeals to the justices are to go and in their place is to be substituted an appeal to the Minister of Housing and Local Government on any of the following grounds: (*a*) that permission ought to be granted for the offending development, (*b*) that such permission has been granted,

(*c*) that no permission was required or the conditions subject to which it was granted have been complied with, (*d*) that the acts complained of did not constitute or involve development, (*e*) that the notice was served out of time, (*f*) that the requirements of the notice exceed what is necessary for restoring the land or complying with the conditions, (*g*) that a longer period for complying with the notice should be allowed (cl. 26 (1) of the Bill). The Bill then provides (cl. 26 (8)) that the validity of a notice duly served under s. 23 on the owner and occupier of land shall not be questioned in any proceedings whatsoever on grounds (*b*), (*c*), (*d*) or (*e*), except that a person interested in the land but not served with the notice (because he was neither owner nor occupier) may defend proceedings under s. 24 (3) on these grounds, and except that an appeal to the High Court from the Minister is given by way of case stated on a point of law (cl. 27).

It will be seen that the new provisions (1) reduce delay by telescoping the old planning application and appeal to the justices into one appeal to the Minister; (2) include as grounds for appeal the grounds (*d*) and (*e*) about which there was formerly doubt as to the justices' jurisdiction; (3) preclude a person having, as it were, a second bite at the cherry when he is prosecuted under s. 24 (3); and (4) preclude an action for a declaration that a notice is invalid on the four grounds on which such a declaration might most commonly be sought. Further, the Bill (cl. 32) doubles the maximum fine on a conviction under s. 24 (3) from £50 to £100, though the maximum daily penalty for a continuing failure to comply after conviction is left at £20.

There are three grounds for disputing a notice which are not covered by these provisions, namely, (1) that the authority have exercised improperly their discretion about serving the notice; (2) that the notice has not been served on the right person or persons; and (3) that the contents of the notice are insufficient, i.e., the notice is defective in form, though here the Bill does contain a provision (cl. 26 (5)) that, on an appeal, the Minister may correct any informality, defect or error in a notice which is not a material one. In case (1) the remedy will remain, as heretofore, an action for a declaration that the notice is invalid or, if *R.* v. *Hendon Rural District Council; ex parte Chorley* [1933] 2 K.B. 696, is still good law, as to which there is doubt, an application in the High Court for an order of certiorari; and in cases (2) and (3) an action for a declaration that the notice is invalid and an injunction to prevent the authority from proceeding on it, or defence of proceedings under s. 24 (1) or (3) and an action for trespass against an authority who have proceeded under s. 24 (1) (see, e.g., *Burgess* v. *Jarvis and Sevenoaks Rural District Council* [1952] 2 Q.B. 41, *Swallow and Pearson* v. *Middlesex County Council* [1953] 1 W.L.R. 422, and *Mead* v. *Chelmsford Rural District Council* [1953] 1 Q.B. 32).

The Bill (cl. 29) contains another provision of great use to a local planning authority. As indicated above, where an enforcement notice required the removal or alteration of a building or works the remedy of the authority was to enter, do the work and recover the cost. This was often a disagreeable task, particularly where the building was, for example, an occupied shack dwelling, and many an authority would no doubt have preferred to prosecute the owner and so force him to do the work. This they will be able to do when the Bill becomes law, and the maximum fine on conviction will be £100 with a maximum daily fine of £20 for a continuing failure to comply. The occupier may be made to allow the owner to enter and do the work (cl. 30).

The foregoing provisions of the Bill will apply only to notices served after the commencement of the Act, which in the ordinary way may be expected about July of this year, save that the increase in fines (cl. 32) will apply to offences committed after the commencement even though the notice was served before. Local planning authorities might, therefore, be well advised, in other than very straightforward cases, to defer serving notices until after the commencement of the Act provided that they will still be able to serve the notice in time.

Repeated operation of enforcement notices

There is one further most useful provision (cl. 33) which will apply whether the enforcement notice is served before or after the commencement of the Act. In *Postill* v. *East Riding County Council* [1956] 2 Q.B. 386, it was held that if, following an enforcement notice requiring discontinuance, the use was discontinued, the notice was exhausted, and, if the use was subsequently recommenced (in *Postill's* case the interval was some ten months), a s. 24 prosecution could not be launched on the original notice but a new notice must be served. Whether a use has been discontinued in any particular case has to be decided on the facts of the case. Under the new provision a notice, whether it requires the demolition or alteration of buildings or works, the discontinuance of a use or anything else, will remain in continuous operation, so that, if the notice is complied with and the offending development is repeated, no new notice need be served. It is, therefore, important not to remove notices from the local land charges register on initial compliance with them, and cases where notices have been so removed in the past should be reviewed.

Time conditions on planning permissions

The Bill contains other minor planning provisions, only one of which need be noted here as of general interest. It has often been the practice in the past on a grant of planning permission to specify, generally as a condition, that the permission shall be void if the development is not commenced within a specified period, or, more positively, that the development shall be commenced before a specified date. The precise effect of such a condition has not been altogether clear, though it has been the writer's view that in such a case where the development was commenced after the period or date an enforcement notice could be served for development without permission (not for breach of condition). The Bill (cl. 34 (2)) makes it clear that where permission is granted in the positive form mentioned the carrying out of the development after the date would be development without permission. Probably the negative form would be held to have the same effect, though it should be avoided for the future.

Licensing of caravan sites

Caravan sites have in the past formed the subject of a large number of the High Court cases on enforcement. Quite apart from the foregoing provisions of the Bill, they are much less likely in the future to do so in view of the provisions of Pt. I of the Bill.

Clause 1 makes it an offence for an occupier of land to permit it to be used as a caravan site unless he holds a "site licence" for it. The maximum fine on conviction is £100 for a first offence and £250 for a second or subsequent offence.

A licence is only required where the caravan or vans is or are used for human habitation, as distinct from being merely stored on the site. There are, moreover, certain

exemptions, though these may be varied in different areas by order of the Minister (cl. 2). Thus, subject to any such order, no licence is required for a van in the curtilage of a dwelling-house whose use is incidental to the enjoyment of the dwelling-house, for a site owned by a local authority, for a site occupied for recreational purposes by an organisation exempted by the Minister, for vans on agricultural land used by seasonal workers employed by the farmer, for land used for vans of a travelling showman in the course of his travels, and for five or more acres of land in a rural district on which not more than three caravans have been stationed on not more than twenty-eight days in a year. The authority for granting site licences is the county borough council, or in administrative counties, the county district council.

The system of site licences is superimposed on planning law, and does not in any way remove the need to have planning permission to use land as a caravan site. Indeed unless application has been made for planning permission and the permission has been granted, the local authority are prohibited from granting a site licence (cl. 3 (3)); where permission has only been granted for a limited period a licence may only be granted for that period (cl. 4 (1)). Conversely where planning permission has been granted a site licence must be issued, and, unless the permission is for a limited period, the licence must not be for a limited period.

A wide variety of conditions may be imposed on a site licence, e.g., as to the number and type of caravans, fire prevention and sanitary and other facilities (cl. 4 (2)). Model standards may be issued by the Minister, and regard is to be had to them in framing conditions (cl. 4 (6)). There is an appeal to the local justices against conditions on a licence (cl. 6), though an appeal to the Minister would seem more appropriate, otherwise there might be a conflict between conditions on the planning permission and conditions on the licence. The conditions on a licence may be altered by the local authority at any time, but there is an appeal to the local justices against any alterations (cl. 7). Breach of a condition by the occupier of the land is an offence, the maximum fine for a first offence being £100 and for a second or subsequent offence £250; on the third or subsequent conviction the court may in addition, on the application of the local authority, revoke the licence; the authority may also enter, carry out works required by a condition and recover the cost (cl. 8).

Existing sites

Clauses 11 to 17 contain some complicated provisions for existing sites, of which there are many all over the country. Any land used as a caravan site both on 9th March, 1960, and at the commencement of the Act, whether or not there is planning permission, and any land which was first used as a site after 9th March, 1960, with a grant of planning permission and is so used at the commencement of the Act, and any land for which no permission is required by virtue of s. 12 (5) of the 1947 Act, is an existing site for the purpose of these clauses (cl. 11).

Existing sites will require site licences just as much as new sites, but no offence will be committed by not having a licence for an existing site for two months after the commencement of the Act if an application for a licence is made in that period (cl. 12). But a site occupier will commit an offence if prior to the issue of the site licence he increases the number of caravans on the site above the number on it at the commencement of the Act or the number specified in his planning permission (if any), or Public Health Act licence (if any) (cl. 14).

Where the existing site has planning permission, then the occupier will be entitled to a site licence in accordance with the provisions already mentioned. Where the site has no planning permission, the local authority will have to send the site licence application to the local planning authority, who are to treat it as an application for planning permission. The latter authority may within six months (1) grant permission, (2) serve an enforcement notice requiring discontinuance of the site, if they are not out of time, or (3) make an order under s. 26 of the 1947 Act requiring the discontinuance of the site, in which case they may be liable for the payment of compensation. If they take none of these three courses then unconditional planning permission is deemed to be granted for the site (cl. 15).

By cl. 16 a site licence for an existing site may contain conditions requiring that caravans taken away shall not be replaced and for the progressive reduction of the number of caravans on the site, provided that suitable alternative accommodation will be available for persons displaced.

By these means existing sites will either be discontinued or brought under control and, where appropriate, gradually reduced in size.

Miscellaneous

As a corollary to the new powers of control local authorities, including county councils, are given power to provide caravan sites, including power to acquire compulsorily private caravan sites, but they are not empowered to provide caravans (cl. 18).

With this strict new control, it may be some relief to know that licences will no longer be required for caravan sites under s. 269 of the Public Health Act, 1936 (cl. 24).

The combined provisions of the Bill giving increased powers of control over caravan sites, the most prolific source of disputes on planning enforcement procedure, and streamlining and greatly improving this procedure should do much to reduce the substantial amount of litigation prevalent in this field and to inculcate respect for proper planning.

R. N. D. H.

TREATMENT OF OFFENDERS

The second United Nations Congress on the Prevention of Crime and the Treatment of Offenders will be held at Church House and 10 Carlton House Terrace, London, from 8th to 20th August, 1960.

BUILDING SOCIETIES

House Purchase and Housing Act, 1959

The Universal Permanent Building Society has been designated for the purposes of s. 1 of the House Purchase and Housing Act, 1959.

RESALE PRICES: INQUIRY

A new inquiry into the extent and effects of the practice of individual resale price maintenance is being initiated by Mr. Reginald Maudling, President of the Board of Trade. The Board will approach some representatives of commerce, industry, consumer organisations, trade unions, and individuals with a view to obtaining the factual information needed. Anyone wishing to submit evidence should write to the Board of Trade, Horse Guards Avenue, London, S.W.1.

LAW OF THE SEA: CONFERENCE

The second United Nations conference on the law of the sea began in Geneva on 17th March.

SEARCHLIGHT ON THE CHANCERY DIVISION
THE HARMAN REPORT—II

by **Professor G. S. A. Wheatcroft, M.A., J.P., A Master of the Supreme Court (Chancery Division) 1951-59**

THE previous article (p. 219) dealt with the recommendations of the Harman Committee affecting Chancery registrars, the drawing up of Chancery orders, and the general method of conducting business in Chancery chambers.

This article deals with the general approach of the Harman Committee to litigation, which is of general importance as it is in strong conflict with the views expressed by the Evershed Committee seven years ago.

The new approach

The final Report of the Evershed Committee (Cmd. 8878) urged in the forefront of its recommendations that there should be a "new approach" towards less costly litigation (*a*) by making the originating summons procedure more generally available, (*b*) by introducing an analogous new procedure (by writ) for use particularly in the Queen's Bench Division, and (*c*) by considerably strengthening the powers of the master on the summons for directions.

The analogous procedure by writ was introduced shortly afterwards by Ord. 14B and has been hardly used at all. For all practical purposes it is now a dead letter and the Harman Committee do not refer to it; the other two proposals of the Evershed Committee are, by implication, sharply rejected in the Harman Report.

Extension of originating summons procedure

The Evershed Committee recommended that originating summons procedure should be made available, *inter alia*, for "any action in which there is no substantial dispute of fact or in which such evidence as is necessary can conveniently be given on affidavit subject, where required, to cross-examination thereon." This recommendation has not yet been implemented by alteration of the rules but the tendency of recent years to authorise originating summons procedure for types of cases in which disputes of fact arise, such as Mines (Working Facilities) cases under Ord. 54O, Inheritance and Family Provision cases under Ord. 54F, and Wardship cases under Ord. 54P, has been continued since the report by the assignment to the Chancery Division of proceedings under the Landlord and Tenant Acts and the requirement that applications for a new lease under the 1954 Act have to be made by originating summons (Ord. 53D).

The Harman Committee regard the tendency to use originating summons procedure for disputes of fact as "retrograde" and they say it is very unfortunate that highly controversial issues of fact should be dealt with on originating summons. They instance the various types of cases mentioned in the last paragraph as unsuitable for this procedure and they would clearly like to see them all dealt with by writ. They suggest, however, that if this cannot be done, a procedure should be devised whereby any party to an originating summons can apply to the master at any time for a direction that further proceedings be carried on as if the proceedings had been commenced by writ. They also recommend that the right to discontinue, to apply to dismiss for want of prosecution and to obtain discovery of documents should be an ordinary part of originating summons procedure.

Here is a major issue. One committee, headed by the present Master of the Rolls, strongly preferred the procedure by originating summons. The later committee, headed by a Chancery Lord Justice of Appeal, unanimously prefers the writ.

It does not, of course, matter very much by what piece of paper a case is started; the differences lie in the subsequent procedure. With a writ there are pleadings, followed by discovery, and the action will be tried on oral evidence, some parts of which may frequently take the other side by surprise. With an originating summons there are no formal pleadings, but full affidavits and exhibits, with discovery only rarely granted at present; when the summons is heard the parties can be cross-examined on their affidavits if there are issues of fact to be decided. The writ procedure is thought to be more expensive, largely because there is a tradition to pay higher fees to counsel on trial of an action by writ than on the hearing of an originating summons. In some ways it is fairer, as discovery is obtained as of right; in an originating summons a party can select those documents which are favourable to exhibit to his affidavit and is under no obligation to disclose those that are not. The preliminary proceedings by originating summons will be shorter than by writ if there is no great dispute of fact, but probably longer and more expensive if there are many deponents with separate affidavits. On the other hand, the fact that everybody has made an affidavit before the hearing does lessen the risk of surprise. There can thus well be two differing views as to which procedure is best, but the tide has been running strongly lately in favour of the originating summons; the Harman Report is the first authoritative indication that the tide may have turned.

The robust summons for directions

The third main recommendation of the Evershed Committee—to strengthen the powers of the masters on the summons for directions so that it can be a "robust" summons—was implemented shortly afterwards by the new Ord. 30. There is no doubt that the masters in both the Queen's Bench and Chancery Divisions have faithfully endeavoured to carry out these recommendations, but so far as the author's own experience goes, they have had little success. In fairness to the Evershed Committee it must be remembered that one of their recommendations—that discovery should be automatic on notice before the summons for directions was heard—was not implemented, so that in the Chancery Division the first appointment on the summons for directions is nearly always a purely formal one on which discovery is ordered and the rest of the summons stood over. After discovery, the parties come back, but they rarely attend by counsel and any attempt by the master to be robust and to suggest that further admissions should be made or special steps taken to save costs inevitably means a further adjournment, when counsel are briefed to deal with the problems raised. Then when counsel come they often produce new facts or adequate reasons to show why the master's suggestions are not appropriate and the expense of the adjournment and briefing counsel is largely wasted. The author recollects an occasional case where some costs were saved as a result of the "robust" summons but there is no doubt that in the majority of cases the new Ord. 30 has resulted in an increase in costs; there are nearly always two appointments and sometimes three

where there was only one before. The experience of a Queen's Bench master is very similar; in an article in the *Law Quarterly Review* for January, 1959, Master Diamond discussed the problem at length and was clearly doubtful whether the new procedure had resulted in an overall saving of costs.

The Harman Committee have a simple solution to the problem. They would abolish the summons for directions altogether in the Chancery Division. They suggest that discovery should be automatic and trial by judge alone automatic, so that an ordinary writ action will never have to come near a master throughout its course, unless some special application, such as for particulars or interrogatories, has to be made. Even with these the Harman Committee suggest that it would be much better, in a case where counsel is now employed before the master or where the parties know they will not be content with the master's decision, for the application to be made directly by motion to the judge, thus by-passing the master altogether. Running through the Harman Report is a basic belief in the strictly "accusatorial" procedure. In their view it is not the task of the court to dictate to parties how their case should be framed or what evidence should be produced. This should be left to the professional advisers on each side, who should be permitted to conduct the case as they think best within the framework of the rules, with final trial before a judge who has never seen the case before.

It will thus be seen that the recommendations of the Harman Committee with regard to actions commenced by writ in the Chancery Division are highly controversial. Their philosophy rejects completely the "new approach" of the Evershed Committee, which required the case at an early stage to come under the control of a robust master who should guide and direct the parties into the least expensive way of settling their differences.

There remain for consideration a number of recommendations by the Harman Committee in connection with forms of procedure by originating summons and certain other specialised procedures peculiar to the Chancery Division. These will be considered in a concluding article.

(To be concluded)

ALAS, POOR GHOST!

SOME REFLECTIONS ON *RE STEED'S WILL TRUSTS*

How Sir William Gilbert would have relished the facts of and judgments given in the case of *Re Steed's Will Trusts* [1960] 2 W.L.R. 474 (C.A.); p. 207, *ante*. Testator leaves farm property and £4,000 to elderly spinster housekeeper long in his service upon protective trusts—application to Chancery Division to defeat protective clauses—legacy expressing wish for beneficiary to look after welfare of named brother—letting of farm to another brother—expert view that value of farm sold with sitting tenant was about the same as probate value of £1,300—offer of £2,250 on same basis actually received—farmhouse substantially destroyed by fire—the "most amiable purchaser" not pursuing his remedy—arrangement not an arrangement—disagreement of Court of Appeal with grounds of decision of Chancery judge but their conclusion equally disappointing to beneficiary—pronouncement by the Master of the Rolls that upon occasion "trustees may feel that they must try to do, to the best of their ability, the duty cast upon them, however distasteful"—finally and perhaps best of all (earning a headline for the case in *The Times*) the conjuring up of the gaunt vision of the spectral spouse. Here, surely, are all the ingredients necessary for a modern team of light opera creators to emulate the success of Gilbert and Sullivan.

The bones of the case

We have already given in our columns a brief outline of *Re Steed's Will Trusts* after the judgment of Harman, J., at first instance, had been pronounced (103 Sol. J. 386).

The plaintiff in the case, Miss Gladys Louise Sandford, had been a loyal and skilful housekeeper for many years to Mr. and Mrs. Joshua Owen Steed. In consideration for her services Mr. Steed, by his will dated 6th August, 1954, left Loft Farm, Cocksfield, and a legacy of £4,000 to trustees upon protective trusts, as defined by the Trustee Act, 1925, s. 33, for the benefit of the plaintiff for life, and after her death for such persons as she might by deed or will appoint, and in default of appointment upon trust for the persons entitled on the distribution of her estate. The clause in the will containing the legacy indicated that it was being given as a recognition of the interest which the testator felt the plaintiff would take in the welfare of a named brother. In his judgment in the Court of Appeal Lord Evershed, M.R., indicated that it was quite clear on the evidence that the testator was anxious that his housekeeper should be well provided for and not exposed to the temptation of being sponged upon by another one of her brothers. In her view, however, her happiness was linked with her association with that brother and his daughter and wife. The testator died on 13th December, 1954, and his will was duly proved by the three defendants being the executors and trustees named in the will. The plaintiff, who was then forty-eight years old and unmarried, subsequently exercised both powers of appointment by deed irrevocably in her own favour.

The farm devised for the plaintiff's benefit comprised some fifty acres and had been let by the testator to a brother of the plaintiff, seemingly the brother referred to by the Master of the Rolls in the temptation context. The trustees, who were concerned about the financial position of the tenant, the payment of rent for the farm and possible liability for capital expenditure for repairs, concluded that the farm was not a desirable asset from the point of view of the trusts which they had to administer and that it should be sold. Qualified experts advised them that if sold with the tenant in occupation the farm should realise about the same as the value given for probate purposes of some £1,300. In fact they received in due course an offer for sale with sitting tenant of as much as £2,250. In May, 1958, the trustees were on the point of giving effect to the sale when the plaintiff issued a writ against them to restrain them from giving effect thereto. Although it is not certain, it seems not unlikely from the terms of Lord Evershed's judgment that the trustees were bound to the proposed purchaser; fortunately for them and the plaintiff this "most amiable purchaser" did not bring proceedings. Subsequent to the plaintiff's commencing proceedings the farmhouse was substantially destroyed by fire.

Arrangement not an arrangement

The plaintiff issued the writ seeking to prevent the trustees selling on 9th May, 1958; six days later a summons was taken out in the action by which she invoked the equitable jurisdiction of the court to control trustees and to direct them not to sell the farm. Later the writ and summons were amended and the court was asked to approve an "arrangement" under the Variation of Trusts Act, 1958, whereby the trustees should stand possessed of the farm, and the property, investments and cash representing the legacy, upon trust for the plaintiff absolutely.

It will be recalled that s. 1 (1) of the 1958 Act empowers the court if it thinks fit to approve on behalf of, *inter alia*,—

> "(*d*) any person in respect of any discretionary interest of his under protective trusts where the interest of the principal beneficiary has not failed or determined, any **arrangement** (by whomsoever proposed, and whether or not there is any other person beneficially interested who is capable of assenting thereto) varying or revoking all or any of the trusts, . . .
>
> Provided that except by virtue of paragraph (*d*) of this subsection the court shall not approve an **arrangement** on behalf of any person unless the carrying out thereof would be for the benefit of that person."

At first instance Harman, J., explained that the arrangement proposed was simply an application by the plaintiff to revoke all the trusts standing between her and absolute dominion over the funds under the trusts, and that she wished to override the discretionary powers given to the trustees. In his view the "arrangement" sought by the plaintiff was not one within the meaning of the 1958 Act, which had to be made between more parties than one; the arrangement could not be made by the beneficiary alone in face of the trustees' opposition. This construction of the 1958 Act was not supported by the Court of Appeal, which dismissed the plaintiff's appeal on more fundamental grounds.

Court of Appeal's judgment

The Master of the Rolls in his judgment succinctly explained that the problem was whether the trustees should exercise their discretion by a sale as they proposed or whether they should succumb to the plaintiff's wishes, she being the person who had such a preponderant interest in the trust property.

An argument addressed to the court on behalf of the trustees was that, in the absence of bad faith or grave misdirection of themselves by the trustees, the court would not interfere with the exercise of the trustees' discretion, particularly if an express trust for sale was involved. In support of this proposition, which found favour with the court, the case of *Re Mayo; Mayo* v. *Mayo* [1943] 1 Ch. 302, was cited. That case, decided by Simonds, J., established that, in the absence of bad faith or unanimous agreement amongst the trustees to postpone the sale, the judicial discretion under the Law of Property Act, 1925, s. 30, must be exercised in favour of the statutory trust for sale.

In the context of this case Lord Evershed expounded the duty of the court under s. 1 of the 1958 Act to be to approve an arrangement or proposal on behalf of the only person or persons who might have an interest under the discretionary trusts and whose presence thereunder prevented the applicant saying that she could terminate the settlement. Although the court would pay regard to the views of the trustees and their grounds for them, it was neither the court's function to approve them nor to say whether the plaintiff was wise or unwise to put forward the proposed arrangement.

Enter the "spectral spouse"

The possibility existed that the plaintiff in the case might marry and marry more than once. It was accepted that she could not have children in view of her age of fifty-three and the plaintiff pointed out that having remained unmarried that long she did not feel in the least likely to marry. That was considered irrelevant by the court. As a discretionary trust existed a future husband of the plaintiff was a person interested under the trusts and the court would have to approve the proposal on his behalf. The court's duty was wider than considering such a person's interest; the scheme had to be looked at as a whole, the scrutiny so exercised having to include consideration of the testator's intention. When this was done the riddle was solved.

> "There is no doubt why the spectral spouse is there," said Lord Evershed. "It was part of the testator's scheme . . . that [the plaintiff] would have proper provision made for her throughout her life, and would not be exposed to the risk that she might, if she had been handed the money, part with it in favour of another individual about whom the testator felt apprehension, which apprehension is plainly shared by the trustees."

In these circumstances therefore the court unanimously concluded that they should not exercise jurisdiction under the 1958 Act to approve the arrangement proposed

An unfortunate aspect of this case was that during the five years following the testator's death relations between the plaintiff and the trustees had become strained. The trustees endeavoured to discharge their duties conscientiously and in doing so took a view which the plaintiff thought unkind to her. The Master of the Rolls appreciated this situation and at both the beginning and end of his judgment expressed his sympathy with the plaintiff on the one hand, and with the defendant trustees on the other, in the differences which had arisen between them, and his hope that time, the healer, would do much to put an end to these troubles. Whether these sentiments extended to the spectral husband and children (in theory if the adoption were for their welfare, the plaintiff could adopt children be she ever so old) we do not know. Assuming that the widest interpretation should be given to the spirit behind the wishes uttered, we cannot resist permitting Sir William Gilbert to have the last word, through the mouth of Sir Roderic Murgatroyd replying to the exclamation which forms the title of this article:—

> The pity you
> Express, for nothing goes:
> We spectres are a jollier crew
> Than you, perhaps, suppose!

N. D. V.

COLONIAL APPOINTMENTS

The following appointments are announced in the Colonial Legal Service: Mr. K. C. BROOKES, Crown Counsel, Kenya, to be Senior Crown Counsel, Kenya; Mr. E. S. HAYDON, Judicial Adviser, Buganda, Uganda, to be Magistrate, Hong Kong; Mr. B. C. ROBERTS, Crown Counsel, Northern Rhodesia, to be Director of Public Prosecutions, Northern Rhodesia; Mr. G. S. SOWEMIMO, Chief Magistrate, Federation of Nigeria, to be Chief Registrar, Federation of Nigeria; Mr. F. A. WILLIAMS, Chief Registrar, High Court, Western Nigeria, to be Chief Registrar, Federal Supreme Court, Nigeria.

Landlord and Tenant Notebook

"A PERSONAL PRIVILEGE"

EARLIER editions of text-books were wont to make exclusive possession the acid test decisive of the question whether parties were landlord and tenant or licensor and licensee. A large number of modern authorities have shown that it is not so easy as all that, and the more recent editions say more about "estate in land." The authorities in question include many in which, in a variety of circumstances, the intention to create a tenancy has been negatived though a right of exclusive possession has been conferred. The latest addition to their number is *Isaac* v. *Hotel de Paris, Ltd.* [1960] 1 W.L.R. 239 (P.C.); p. 230, *ante*.

The respondent company, plaintiffs at first instance, ran an hotel at Port of Spain. Opposite the hotel was a building, two floors of which were let to the company at a monthly rent of $250, which they used as an annexe, calling it "the Parisian Hotel." The sole owner of the company's sixty-four shares agreed to sell the appellant, who had had some experience of the hotel trade, fifteen of them, to be paid for by an initial deposit and monthly instalments, forfeiture on default. Soon after that the appellant suggested that some repairs be done to the Parisian Hotel and that a night bar should be established in it under his charge. This was done, the appellant obtaining the necessary licence and buying stock at his own expense but promising to account, and so accounting, to the respondents for the night bar expenditure and receipts. A couple of months later, relations having become strained, an attempt was made to settle a contract; negotiations broke down, but some of the proposed terms were subsequently acted on: the appellant to remain in occupation of the first floor (the night bar floor) of the Parisian Hotel, to pay all expenses incurred in connection with the running of the Parisian Hotel, including the monthly rent which the respondent company paid its landlord, and to retain profits he made from the business carried on at the Parisian Hotel in lieu of the dividends on his shares if he acquired them.

Notice and after

Some three months later, the appellant having defaulted in payment for his shares, the company or its main shareholder wrote to him forfeiting the deposits [*sic*] and demanding the removal of stock, etc., from the Parisian Hotel within seven days "and I am to warn you that if you fail to do so I shall be obliged to take such steps as may be necessary to have them removed therefrom." (It may be observed that possession was demanded by implication only.) A further period of four months elapsed before the writ was issued. Meanwhile, and after judgment had been given against him and after he had lost an appeal to the Federal Supreme Court and, it was mentioned, up to the date on which judgment was delivered by the Judicial Committee, the appellant continued to occupy at least the first floor, run the night bar, and pay the respondents the equivalent of the rent paid by them. The appellant described these payments as "rent for the Parisian Hotel" or as "rent due at the Parisian Hotel"; the respondents gave no receipts but did accept the money, and the explanation given by their principal shareholder at the hearing of an application by the appellant for a licence—made after the dismissal of his first appeal—was "I do not know how long the case will last so I must cash the cheques." On the occasion of that application the same witness had said, earlier in his evidence: "Hotel de Paris are sub-letting to [the appellant] who pays $250 a month rent."

Intention

The appellant could thus claim to have had exclusive possession, to have paid for it, and to have been described by his opponent as a sub-tenant; nevertheless, the Privy Council agreed with the courts below, applying the rule propounded by Greene, M.R., in *Booker* v. *Palmer* [1942] 2 All E.R. 674 (C.A.), that "There is one golden rule which is of very general application, namely, that the law does not impute intention to enter into legal relationships where the circumstances and the conduct of the parties negative any intention of the kind."

It is well known that those circumstances and conduct have often been features of alleged rent-controlled tenancies; but the golden rule is not limited to such, and in the present case the position was described by Lord Denning in these terms: "The circumstances and conduct of the parties show that all that was intended was that the appellant should have a personal privilege of running a night bar on the premises with no interest in the land at all."

Circumstances and conduct

The fact that the new test is more complex than the old one may make things difficult for the practitioner. A seventeenth century authority, *Thomas* v. *Sorrel* (1673), 1 Freem. K.B. 85, may have given us a definition of a licence: "A dispensation or licence properly passeth no interest nor alters or transfers property in any thing, but only makes an action lawful, which without it had been unlawful"; what one wants to know, however, is what are the circumstances and conduct which will, when exclusive possession is granted and enjoyed, negative a tenancy. In my submission, the practitioner would do best to concentrate on the expression "personal privilege" and in particular to consider whether the grantee is likely to have thought that he could assign his rights to a third party.

Denning, L.J., gave a useful summary of existing authorities when delivering judgment in *Errington* v. *Errington and Woods* [1952] 1 K.B. 290 (C.A.): they included cases in which people had been accommodated under Defence Regulations; one in which the daughter of a statutory tenant, not qualified for transmission on death, had been allowed to remain, paying "rent," the landlords not wishing to disturb her; and one in which a retired tenant was allowed to remain rent free. The learned lord justice said: "Parties cannot turn a tenancy into a licence merely by calling it one. But if the circumstances and the conduct of the parties show that all that was intended was that the occupier should be granted a *personal privilege*, with no interest in the land, he will be held to be a licensee only." In *Cobb* v. *Lane* [1952] 1 All E.R. 1199 (C.A.), we find Denning, L.J., saying: "The question in all these cases is one of intention: did the circumstances and the conduct of the parties show that all that was intended was that the occupier should have a *personal privilege* with no interest in the land? . . . The defendant had only a personal privilege with *no interest in the land, which he could assign or sub-let*, and he could not part with the possession to another."

The appellant in *Isaac* v. *Hotel de Paris, Ltd., supra*, was clearly in that position. The fact that he went on making monthly payments and that the respondents went on accepting them to the last was less awkward from their point of view than might appear, and while it may be a little startling to find Lord Denning likening the position of the appellant (after the notice) to that of a tenant at sufferance, intention is again the decisive factor. The question of the effect of acceptance of such payments is, however, one which deserves a separate article.

R. B.

Country Practice

THE DAFFODILS

SOMEONE suggested that this column should draw the attention of its readers to the fact that spring is here again. By an odd coincidence Wordsworth chose the same title when he was right up against the same subject; but he did it in verse. A poet, according to him, could not but be gay in such a jocund company. Here I tend to part company with Wordsworth; for my inward eye tends to look beyond the daffodils to the lake in the background. The stretch of water alluded to is in fact a public highway—this was clearly established in the case of *Marshall* v. *Ulleswater Steam Navigation Co.* (1871), L.R. 7 Q.B. 166. It was accordingly held that the plaintiff (whose predecessors had acquired the fee simple of the bed of the lake from the Mounseys, former kings of Patterdale) could not prevent the defendants from passing and re-passing over the surface. It is against such a background that daffodils are to be viewed.

Solicitors are obviously defective in poetic sensibility. Offhand one can think of great poets who have graduated from other occupations—those, for instance, of chemist's assistant, revenue official, sailor, shepherd, parson and schoolmaster. But not a single solicitor within sight of Parnassus. Why? Not all are so soulless as the very able practitioner I once knew who, on being invited to admire a glorious view, said that he could not stand the sight of registered land.

Spring, it seems to me, is a pleasant quickening in the tempo of cause and effect. Photosynthesis is the reason for daffodils, but we had better keep science out of this. All I wish to say is that springtime is very enjoyable, and is most noticeable to the country practitioner in the increased rate at which things happen. In the conveyancing department, dormant contracts come to life with completions aimed at 6th April. In other departments, clients who have nursed their hopes and grievances throughout the long, muddy winter decide to bring them into the solicitor's office for an airing.

And what of the country solicitor himself? If he happens to practise in an area where estates have already suffered fragmentation, he need not thrust out frond and rootlet for nourishment; if he is reasonably efficient, well-to-do farmers will cluster round him, beseeching him to do their conveyancing. This holds the promise of quite a pleasant living to be got from the work that lies nearest to hand. The good conveyancer might be compared with a good dentist who, after a long and careful training, can win a reasonable reward for great skill and little effort.

There remain, however, tracts of no man's land, where the great landowners are still throwing everything into the struggle against the twentieth century—resettlements, complicated insurances, company formations, tax and family planning, and trust busting—the lot. Occasionally there is a casualty and, as the dust settles, my partners and I infiltrate into the outlying portions of the estate to mop up the carnage left by the latest raid from the Estate Duty Office. But on the whole our local landowners are holding out, and we have to seek our fortunes further afield. By sheer necessity, we must explore every avenue just a little further than do some of our competitors.

Thus I had to deal with an inquiry from a local council which needed some money. As a result, I became involved in a series of incidents including (*a*) a satisfactory visit to the head office of quite a large building society, (*b*) chatting on the telephone to a gentleman with some trade union funds to invest, (*c*) chatting to a bigger and better local authority requiring a larger loan than the trade union could manage, (*d*) chatting on the telephone with another financial gentleman who mentioned a sum larger than the bigger and better local authority really needed, and (*e*) accepting an invitation to visit London to discuss the whole position.

Spring, like a country practice, is just a series of repercussions. So tomorrow I visit London. I wonder if the daffodils are out in Kensington Gardens? I haven't really noticed whether they are early, this year, at my own back door.

"HIGHFIELD."

"THE SOLICITORS' JOURNAL," 24th MARCH, 1860

ON the 24th March, 1860, THE SOLICITORS' JOURNAL criticised a new proposal, which, it said "was conceived in rashness and must end, if it ever begins, in failure. It is said that a 'Country Solicitors' Union' is needed because the Incorporated Law Society comprises less than a fourth of country members and has only three country solicitors upon its Council. But what is the cause of this disproportion . . . which the most earnest friends of the Society lament but which they cannot . . . remedy? It is . . . that country solicitors . . . can only spend a small portion of their time in London . . . But undoubtedly the railway and the telegraph do enable the country solicitor to visit London more frequently and more conveniently than he used to do; and it is most desirable that he should . . . avail himself of these enlarged facilities for seeing how his own and other business is done in London. . . . We should have thought that the Incorporated Society and the Law Club which exists under the same roof offered to the country solicitor many conveniences for transacting business and holding intercourse with his London brethren . . . To every word . . . in the prospectus of the 'Union' about the important social position and influence of the country solicitor we give our candid assent . . . But these common objects are not likely to be advanced by an attempt to produce what is called 'union,' but is really schism in the ranks. If the Incorporated Society be too metropolitan in its form and tendency, let the country solicitors use the remedy which is in their own hands by enrolling themselves to such a number as shall make their influence felt . . . We are convinced that the surest way to promote the interests of the body of solicitors both in town and country is to place the Incorporated Society upon the broadest possible foundation, so that it may at all times represent the views and guard the rights and speak with the voice of the whole profession."

HERE AND THERE

PICTURES OF MARRIAGE

I LIKE the story of the accomplished preacher who, having delivered in a Dublin church a moving sermon on the married state, mingled unobtrusively with the congregation as they went out and heard two women discussing his performance. "Now, wasn't that a beautiful sermon the young man gave about Holy Matrimony?" said one. "Ah! Lord love him!" replied the other. "I wish I knew as little about marriage as he does." Perhaps she was over-estimating the ignorance of those ministers of religion who, though celibate themselves, spend several hours a week listening to other people's sins in the confessional. Even so, however, information, no matter how vivid and explicit, is never really the same as actual experience and, for the matter of that, most married people are themselves monumentally ignorant about the married state, since they only know what has happened to their particular union and I am assured by polygamous friends (that is, those who have been married two or more times) that the shape of one marriage is no guide at all in the next; each is a unique creation. Even a diligent study of the divorce court reports, though they may make one gasp and stretch one's eyes and leave one, indeed, a lot better informed about the vagaries of human behaviour, will leave one very little the wiser as to the art and craft of successful wedlock. Sometimes, of course, you will find two cases companion pieces, sharp-tongued conversation pieces, pictures which might be coloured and hung on either side of the matrimonial fireplace (or in the typical modern home the matrimonial television set) to warn and to direct. Two such cases were reported quite recently in the newspapers. One presents a picture somewhat Hogarthian in its composition entitled "The Cruel Wife." One would expect the other to be called "The Kind Wife," but actually it is called "Fair Wear and Tear." The Cruel Wife hit her husband over the head with the firetongs, attacked him with a knife, stubbed out a cigarette on his arm, hit him in the mouth with a bunch of keys and threw boiling water over him. Mr. Commissioner Flowers in the divorce court held that "he must be under reasonable apprehension of damage to health unless he was a very remarkable man" and granted him a decree nisi. In "Fair Wear and Tear" the wife is pictured as having slapped her husband's face in the presence of his stepmother, walked out of a dance, walked out of the house in the presence of his brothers, lost her temper in the presence of a friend, hidden the tea and sugar and thrown a plant pot at her husband. "If ever there was a case of ordinary wear and tear of married life," said Mr. Commissioner Flowers this time, "it is this. It cannot be too firmly stated that the divorce court is not the proper place for people to come for dissolution of marriage because they don't get on well together."

DIVORCE A LA MODE

HOGARTH, of course, depicted high life every bit as well as middle life and low life, and the rest of the wall space in the matrimonial sitting-room might well be devoted to Hogarthian representations of divorce among the rich. In his lifetime he executed a famous series on cruelty. Could his ghost be called up to match it with a series on the matrimonial sadism of the wealthy who, of course, can afford every refinement of cruelty? But if that would be too harrowing for general consumption what about a series on "Divorce à la Mode"? Again, a recent case provides a promising framework. Within three months of their marriage the well-connected husband and his beautiful young wife are entering their horseless carriage. He (to borrow her own reported description of him after their divorce) "is a very sweet person," who when sober is all that he should be but when drunk is not all that he should be and who has far too much to drink far too often. On this occasion he is drunk and when his wife asks him to let her drive and attempts to insist he slaps her face. Next picture—a court scene. In less than two years after the marriage the lady has obtained special leave to petition for divorce. After that she has disclosed for the first time her own adultery and has obtained leave to amend her petition so as to ask the court to exercise its discretion in her favour. When the case comes on for hearing, now more than three years after the marriage, the judge holds that what happened in the horseless carriage, viewed against the background of continuous drunkenness, amounted to cruelty, and, while remarking that he is highly suspicious of her explanation for not having disclosed her adultery at the proper time, exercises his discretion in her favour, since she says she wishes to marry the man concerned. After the hearing the lady, wearing a mink stole over a silver grosgrain dress, shakes hands with her husband and withdraws to a place of hospitality nearby. Final picture—the place of entertainment. A party, with champagne and scampi, is in progress. Other customers think it is a wedding reception. It is a divorce celebration. The inevitable newspaper reporter collects conversation and comment. "We had three cars," the lady says, "a Rolls, a Morris Minor and a Land Rover. My husband always insisted on driving. That was where our marriage went wrong." So the horseless carriage is really the villain of the piece. It should in justice have been cited as intervener. A marriage, killed stone dead, should be put down among the road casualties. Yes, I think Hogarth *redivivus* could have made something of the series.

RICHARD ROE.

OBITUARY

Mr. WILFRED LAWSON BELL, solicitor, and formerly Registrar of the Mayors and City of London Court, died on 16th March.

Colonel Sir WILLIAM JOHN KENT, K.B.E., solicitor, of Crewe, died on 5th March. He was admitted in 1899.

Mr. HAROLD KING, solicitor, of Taunton, died on 6th March, aged 72. He was admitted in 1912. From 1927 to 1952 Mr. King was clerk of the peace and clerk to Somerset County Council.

Mr. FREDERICK CHARLES SHEPPARD, solicitor, of Battle, Sussex, died on 6th March, aged 78. He was admitted in 1906.

Sir LINDSEY SMITH, barrister-at-law, died on 8th March, aged 89. He was called to the Bar in 1889. Sir Lindsey was Deputy Recorder for Sandwich, 1899 to 1901, and in the latter year he was one of the assistant editors of the yearly Supreme Court Practice and Stone's Justices' Manual.

Mr. EDWARD WILLIAM STEPHENS, solicitor, of Chatham, died on 8th March, aged 67. He was admitted in 1920.

Mr. HENRY ARTHUR WINDMILL, solicitor, of Birmingham, died on 13th February, aged 52. He was admitted in 1957.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. Where possible the appropriate page reference is given at the end of the note

House of Lords

ARBITRATION: TWO MEMBERS OF CO-OPERATIVE UNION

Bellshill and Mossend Co-operative Society, Ltd. *v.* Dalziel Co-operative Society, Ltd.

Viscount Simonds, Lord Reid, Lord Radcliffe, Lord Keith of Avonholm and Lord Denning. 10th March, 1960

Appeal from the First Division of the Court of Session ([1959] S.L.T. 150).

The parties to this action were both co-operative societies registered under the Industrial and Provident Societies Act, 1893. They were in dispute as to their respective trading rights in a certain area. Both were members of a co-operative union registered under the Act. Its rules provided, *inter alia*, that one of its objects was to act as arbiter in disputes between member societies and that any dispute relating to overlapping should be submitted to arbitrators appointed by it, whose decision should be final and binding. The rules also provided that any member of the society might withdraw from the union by a written notice sent to its office. In 1955 the dispute between the two member societies was submitted to arbitrators who issued an award forbidding the Dalziel Society to trade in a certain area. The society refused to comply and in 1957 withdrew from the union. In an action by the Bellshill Society seeking to enforce the award, the First Division of the Court of Session held that in terminating its membership the Dalziel Society had ceased to be bound by the award. The Bellshill Society appealed to the House of Lords.

Viscount Simonds said that membership of the union was optional and could be terminated at any time either voluntarily or by exclusion. The rules were binding on Bellshill and Dalziel as members of the union. Bellshill contended that the award not only operated while Dalziel was a member of the union but was permanent and unqualified. This contention was opposed by Dalziel on the ground (1) that on its true construction the award was limited in its operation to the period of membership of the union, and (2) that if on its true construction its operation was permanent, then it was *ultra fine compromissi* and invalid. If the award bore the meaning contended for by Bellshill, it could not be upheld. Regarding the award, not *in vacuo* but in relation to the rules under which the dispute was referred to arbitration, there was no difficulty in concluding that it was operative against Dalziel only while it was a member of the union, but, if the opposite view was taken, there was no answer to the argument that the award was *ultra vires*. It was unreasonable to suppose that a society, joining the union and thereby agreeing to submit its freedom of trading to arbitration, intended to bind itself for all time, whether or not it continued a member. Here the primary contract related to competition between members of the union; to that contract the submission to arbitration was ancillary; an award made on it could not carry the matter further. The appeal should be dismissed.

The other noble and learned lords agreed in dismissing the appeal. Appeal dismissed.

Appearances: *Sir Frank Soskice*, Q.C. (of the English Bar), and *I. M. Robertson*, Q.C., and *G. S. Gimson* (both of the Scottish Bar) (*Martin & Co.*, for *Gray, Muirhead & Carmichael*, W.S., Edinburgh, and *Koylen, Strong & Co.*, Glasgow); *R. S. Johnston*, Q.C., and *Peter Maxwell* (both of the Scottish Bar) (*Herbert Smith & Co.*, for *Shepherd & Wedderburn, MacPherson & Mackay*, W.S., Edinburgh).

[Reported by F. H. Cowper, Esq., Barrister-at-Law] **[2 W.L.R. 580**

Court of Appeal

LANDLORD AND TENANT: BREACH OF REPAIRING COVENANT: MEASURE OF DAMAGES

Jaquin *v.* Holland

Ormerod and Devlin, L.JJ., and Gorman, J.

20th January, 1960

Appeal from Sevenoaks County Court.

On the termination of a tenancy containing a covenant to keep and yield up the demised premises "in good and tenantable repair," the landlord spent £19 10s. in putting the premises into a lettable condition and the premises were immediately re-let at the same rent as in the earlier tenancy. The premises were situated in an area where there was a high demand for houses to let. In an action by the landlord for damages for breach of the repairing covenant, the diminution in value of the reversion under s. 18 (1) of the Landlord and Tenant Act, 1927, was found to be £50, this sum being based on the estimated reduction in selling value of the premises. It was contended for the tenant that in the circumstances the sum of £19 10s. represented the true measure of damage since the premises were immediately re-let at the same rent subject to the payment of that sum or, alternatively, because the lettable value of the freehold should be taken into consideration.

Ormerod, L.J., said that there must be a moment of time when the freehold reversion, unincumbered, was vested in the landlord and the question was: What was the value of the reversion at that time? The finding that there would be a reduction in the selling price of £50 meant that there would be a diminution of £50 in the value of the freehold reversion. It was not correct in a case of this kind to take the circumstances of letting and say that, because any house could be let almost in any condition at that time, then there was no obligation on a tenant to perform his covenant to repair. The rule in *Proudfoot* v. *Hart* (1890), 25 Q.B.D. 42, was a guide as to the extent of repair which might be necessary to comply with a repairing covenant, but it was a guide that called in that useful individual, the reasonable man, acting in reasonable circumstances. In his lordship's judgment, £50 was the sum which should be paid and the appeal should be dismissed.

Devlin, L.J., agreeing, said that where, at the end of a tenancy, there was a claim for dilapidations, the first thing that had to be done was to draw up a list of the work that it was necessary to do to put the premises into good and tenantable repair in accordance with the covenant. It had not been disputed in the present case that the test laid down in *Proudfoot* v. *Hart* was the appropriate test for ascertaining what work it was necessary to do. Because s. 18 of the Landlord and Tenant Act, 1927, provided that the damages were not to exceed the amount by which the value of the reversion had been diminished, it was then necessary to ascertain the extent of any such diminution. Even if one lease immediately succeeded another, there must always be a notional moment of time in which the estate found its way back into the hands of the landlord before he let it out again and the second lease had to be disregarded. The shortage and desirability of houses in the area causing the premises to be re-let at an expenditure of £19 10s. were considerations which were extraneous to the true principle on which the value of the reversion should be arrived at.

Gorman, J., delivered a concurring judgment.

APPEARANCES: *John Gower* (*Vallis & Struthers*, Sevenoaks); *John Drinkwater* (*Neve, Beck & Co.*, for *W. H. House & Son*, Sevenoaks).

[Reported by A. H. BRAY, Esq., Barrister-at-Law] **[1 W.L.R. 258**

HUSBAND AND WIFE: CRUELTY: WHETHER BRUTALITY TO CHILD CRUELTY TO WIFE

Wright *v.* Wright

Hodson and Harman, L.JJ., and Havers, J.

22nd February, 1960

Appeal from Wrangham, J.

A wife petitioned for a decree of dissolution of marriage on the ground of her husband's cruelty, the cruelty consisting of the husband's punishment of a child of the marriage by beating him over the head and ears with unnecessary brutality, to which he knew his wife was averse, and which the judge found affected her health. There was no evidence that the husband had any express intention to injure his wife's health.

HODSON, L.J., read the judgment of the court, and said that it was contended that the facts found by the judge did not amount to cruelty in law. Counsel for the husband had relied on a passage in the judgment of Sir James Hannen in *Birch* v. *Birch* (1873), 28 L.T. 40. Bucknill, L.J., in *Kaslefsky* v. *Kaslefsky* [1951] P. 38, said of that passage that it was a clear statement that brutality to the child would not amount to cruelty to the wife, unless it were shown to have been done for the express purpose of wounding her feelings in such a way as to injure her health; and he did not think that that statement had been modified by *Squire* v. *Squire* [1949] P. 51. In that case it was held that the principle that a person had to be presumed to intend the natural and probable consequences of his acts applied to acts alleged to amount to cruelty in matrimonial causes. It was not possible to reconcile *Birch* v. *Birch* and the passage referred to in *Kaslefsky* v. *Kaslefsky* with *Squire* v. *Squire*. If the conduct of a husband towards a child was unjustifiable as it was in this case, it was not necessary to aver or prove an express intention by the husband to injure the health of the wife. The husband knew that the wife was averse to his conduct, and must have known that it was likely to cause injury to her health, as it did. They agreed with the judge in finding that cruelty was established and the appeal would be dismissed.

The court also referred to cases where indecent assaults on a child of the marriage or of one of the spouses had been held to amount to cruelty, and said that there was no difference in principle between such cases and ill-treatment by beating; the distinction between them being that no evidence was required to show that the former was unjustifiable, whereas in the latter it had to be shown that the chastisement was more than was reasonable and was unjustifiable.

APPEARANCES: *James Comyn* and *R. B. Holroyd Pearce* (*Warmingtons & Trevor Jones*); *Stanley Rees*, Q.C., and *H. S. Law* (*Barnett & Barnett*).

[Reported by MRS. IRENE G. R. MOSES, Barrister-at-Law] **[2 W.L.R. 499**

Chancery Division

DAMAGES: BREACH OF CONTRACT FOR SALE OF LAND

Diamond *v.* Campbell-Jones

Buckley, J. 4th February, 1960

Adjourned summons.

By an agreement dated 11th July, 1956, the defendants agreed to sell to the plaintiff a leasehold house in Mayfair for £6,000. The agreement provided that the property was sold subject to a contract of September, 1955, between the reversioners and the defendants which provided that the defendants should carry out extensive works on the property including complete interior and exterior decoration and the appropriate works for the conversion of the ground floor and basement into self-contained office accommodation and the remainder of the premises into one self-contained maisonette. The property was also expressed to be sold on the footing that the permitted use thereof for the purposes of the Town and Country Planning Act, 1947, was indicated in a letter from the Minister of Housing and Local Government to the defendants' solicitors dated 15th February, 1954. This letter was the result of an application by the defendants for town planning permission to convert the whole of the property to use as business premises and was issued as the Minister's formal decision, granting permission for the use of the ground floor as offices and the remainder for "multiple residential use." The plaintiff, who had for a number of years carried on business as a dealer in real estate and had bought and converted several houses in central London, stated in his affidavit that the purpose of his acquiring the property "as the defendants at all material times well knew was to obtain vacant possession so that I could develop the same by sub-division thereof." On a summons to determine what damage the plaintiff had suffered as a result of the defendants' wrongful repudiation of the agreement, the plaintiff contended that the proper measure of damages was the kind of profit which it was reasonable to suppose he would have made had he converted the property into two maisonettes and ground floor offices. The defendants contended that the proper measure was the difference between the sale price and the market value of the property at the date of the breach. The court found that the defendants did not have any knowledge at the date of the contract as to how the plaintiff proposed to deal with the property.

BUCKLEY, J., said that special circumstances were necessary to justify imputing to a vendor of land a knowledge that the purchaser intended to use it in any particular manner. Neither the fact that the property was ripe for conversion, nor the fact that everyone concerned recognised this, was sufficient for imputing to the defendants knowledge that the plaintiff was a person whose business it was to carry out such conversions and that he intended to convert this property. The plaintiff was not therefore entitled to the measure of damages he claimed but only to the difference between the sale price and market value of the property at the date of the breach.

APPEARANCES: *G. A. Rink*, Q.C., and *Michael Brown* (*Sampson & Co.*); *H. Heathcote-Williams*, Q.C., and *Arthur Bagnall* (*Thorold, Brodie & Co.*).

[Reported by Miss PHILLIPA PRICE, Barrister-at-Law] **[2 W.L.R. 568**

MORTGAGE: STATUTORY POWER OF LEASING EXCLUDED EXCEPT WITH CONSENT OF MORTGAGEE: ONUS OF PROVING CONSENT: WHETHER LEASE BINDING ON MORTGAGEE

Taylor *v.* Ellis

Cross, J. 10th February, 1960

Originating summons.

A mortgage, dated 27th October, 1924, excluded the mortgagor's statutory power of leasing unless the mortgagee should consent in writing to the lease. By an agreement, dated 19th September, 1940, the surviving mortgagor purported to grant a monthly tenancy to *W. H.* The surviving mortgagor, who granted the tenancy, died on 11th July, 1943, and the original mortgagee died on 21st July, 1957. There was no evidence that the mortgagee did give written consent to the grant of the tenancy, but there was no positive evidence that he did not, and it was possible that he had: it was admitted that the mortgagee knew of the tenancy. No mortgage interest was paid after October, 1950, and, on 5th August, 1959, the mortgagee's personal representative issued an originating summons claiming possession of the property subject to the mortgage.

CROSS, J., said that the first point which arose was whether or not the grant of the tenancy was an exercise of the statutory power of leasing; whether or not, that was to say, the mortgagee gave his consent to it in writing. Normally, there was not the least difficulty because normally the mortgagee was alive and could say whether or not he had consented. The difficulty was that both the mortgagee and the mortgagor who created the tenancy were dead. The point that had been argued was on whom did the onus lie to establish that the mortgagee either gave or did not give his consent in writing? The matter could best be decided by asking how the point would be pleaded in an action of ejectment. It seemed to him that the mortgagee in his statement of claim against anybody in possession of the land would have had to do no more than set out the mortgage and claim possession. Then came the question of defence. If the tenant was going to allege, in the face of an absolute prohibition against leasing, that the mortgagee had waived his rights or consented in some way he would have to set it out in his defence. In the same way here, where the provision was that a lease would only be binding on the mortgagee if he consented thereto in writing, that was a matter which the defendant would have to establish. It was an additional argument in favour of that way of looking at the matter that the courts leaned somewhat against imposing on any party to litigation the burden of proving a negative. That appeared from various obiter dicta in *Joseph Constantine Steamship Line, Ltd.* v. *Imperial Smelting Corporation, Ltd.* [1942] A.C. 154, at pp. 177, 194 and 200. Therefore, in the absence of any evidence that the mortgagee did consent in writing—and the evidence as far as it went suggested that he did not (although it was not conclusive)—it must be taken that to begin with the tenancy was not binding on the mortgagee. Then the question arose whether the mortgagee became bound by the tenancy by reason of subsequent events. It would be wrong to infer merely from the fact that the mortgagee allowed the tenant to remain in possession having knowledge of the tenancy that the mortgagee had consented to take the tenant as his tenant. In that connection he agreed with the passage in the judgment of Monroe, J., in *In re O'Rourke's Estate* (1889), L.R. 23 Ir. 497, at p. 501, quoted by Danckwerts, J., in *Parker* v. *Braithwaite* [1952] 2 T.L.R. 731, at p. 735. He had been referred to *Hepworth* v. *Pickles* [1900] 1 Ch. 108, which turned on the question of waiver of a right to enforce restrictive covenants. That case did not seem to him to have any relation to the present case. There was not, in the present case, a covenant by the mortgagor that he would not part with possession of the premises, or purport to create any tenancy between himself and somebody else. There was no covenant which the mortgagee could enforce; his only way of protecting himself or preventing the creation of a tenancy binding as between the mortgagor and the tenant was to go into possession. You could not infer from the fact that he did not go into possession that he was waiving his right to treat the tenant as a trespasser. Further, he (his lordship) could not infer, simply from the fact that no interest was paid, anything against the original mortgagee or the plaintiff as his executrix.

APPEARANCES: *N. Browne-Wilkinson* (*Gouldens*, for *Andrews & Bennett*, Burwash); *Bryan Clauson* (*Spenser, Limbrey & Co.*).

[Reported by Miss V. A. MOXON, Barrister-at-Law] **[2 W.L.R. 509**

INCOME TAX: SETTLEMENT: TRUST FOR ACCUMULATION: ADVANCEMENT

Inland Revenue Commissioners *v.* Bernstein

Danckwerts, J. 15th February, 1960

Case stated by the Commissioners for the special purposes of the Income Tax Acts.

By a settlement dated 16th October, 1947, a fund was settled on trust to accumulate the income therefrom during the life of the settlor, and after his death on trust as to one-third for the children then living of the settlor by the beneficiary, his present wife, and as to two-thirds for the beneficiary absolutely; if the beneficiary died during the lifetime of the settlor the fund was to be held on trust for her children living at his death, but if at the death of the settlor there were living no children of his by the beneficiary, then on trust for the beneficiary absolutely, and if she should die during the settlor's lifetime without leaving any children on trust for her sister absolutely. The settlor appealed to the special commissioners against assessments to surtax for the years 1950 to 1954 in respect of income arising under the settlement, and the Crown contended that by virtue of the statutory power of advancement under s. 32 of the Trustee Act, 1925, one-half of the property comprised in the settlement might become payable to or applicable for the benefit of the settlor's wife within s. 405 (2) of the Income Tax Act, 1952, and that, accordingly, one-half of the income under s. 405 (1) was to be treated as his income. The special commissioners discharged the assessments, and the Crown appealed.

DANCKWERTS, J., said that from the way the settlement was drawn, and in particular from the fact that it provided for accumulation during the lifetime of the settlor, it seemed to him that there was an intention that no income should be distributed before the death of the settlor. If the power of advancement were exercised, the effect would be to cut off the appropriate portion of the income after that advancement, and of necessity the operation must put an end to the trust for accumulation to that extent. The trust for accumulation was thus inconsistent with the trust for advancement contained in s. 32 of the Trustee Act, 1925, since it was an expression of a "contrary intention" within s. 69 (2) of the Act. Section 32, therefore, was not applicable and, accordingly, no advances could be made of either capital or income to the beneficiary during the settlor's lifetime. Further, he could not see, as regards the share of the beneficiary, how the interest of the possible children—there were none at present—could be regarded as a prior interest within s. 32 at all. They only had a contingent interest which was subject to her first interest. Moreover, the practice of the Chancery Division in dispensing with consents and allowing the distribution of a trust fund where the court was satisfied that a woman was incapable of child-bearing, was a rule of practical administration which could not be invoked to aid the Inland Revenue to claim payment of tax in circumstances which were still hypothetical. Accordingly the appeal must be dismissed.

APPEARANCES: *John Pennycuick*, Q.C., *E. Blanshard Stamp* and *Alan S. Orr* (*Solicitor, Inland Revenue*); *Sir Lynn Ungoed-Thomas*, Q.C., and *C. N. Beattie* (*Gouldens*).

[Reported by Miss M. G. THOMAS, Barrister-at-Law] **[2 W.L.R. 554**

PENSIONS SCHEME: POWER TO AMEND IN "UNFORESEEN CIRCUMSTANCES": BENEFICIAL INTERESTS OF EMPLOYEES

In re Alfred Herbert, Ltd., Pension and Life Assurance Scheme's Trust

Alfred Herbert, Ltd. *v.* Hancocks

Cross, J. 17th February, 1960

Adjourned summons.

In 1939 a company introduced a contributory scheme of pensions and life assurance for staff employees. In the booklet setting out the rules of the scheme, which was issued to all employees, it was stated: "Change of scheme. While the company has every hope of maintaining its contributions to the scheme, the right is reserved in the event of unforeseen circumstances to discontinue the scheme . . . or suspend or amend it from time to time . . ." It was provided that if a

member of the scheme died while in the service of the company and before going on pension, the normal pension age being attained on 1st March nearest to the sixty-fifth birthday, the life assurance benefit would be paid and the whole of his contributions would be returned. By an amendment made in 1955 it was provided that on such event the life assurance benefit applicable immediately prior to normal pension age would be paid, together with a cash sum equivalent in value to five years' payments of the pension which would have been payable had the employee retired on the date of death. Another amendment made in 1955, with a view to saving estate duty, enabled an employee to nominate a beneficiary to whom the death benefit might be paid if he survived the employee; if the employee left no nominated beneficiary surviving it would be payable to the widow or widower of the employee, and if the employee left neither nominated beneficiary nor widow or widower surviving it would be payable to the employee's estate. The nominated beneficiary was to be either the employee's wife, husband, ancestors or descendants, or such other person as the company considered to have a moral claim on the employee. An employee joined the company in 1897; he was married in 1907. He joined the scheme and after 1st March, 1951, when he attained the normal pension age, he continued to work for the company, although he made no more contributions. He made no nomination under the amendment of 1955. On 31st December, 1957, he stopped working for the company but it was agreed that he should be regarded as remaining in the company's employment until 31st March, 1958, when he would begin to draw his pension. On 3rd February, 1958, he made a will appointing the second and third defendants as his executors and on 28th March, 1958, he died. There thus became payable life assurance and pension benefits. A summons was taken out to determine, *inter alia*, whether, on the true construction of the booklet, the 1955 amendment as to the nomination of beneficiaries was valid, and if not, whether the benefits were payable to the widow or to the executors of the deceased employee.

CROSS, J., said that the "change of scheme" provision was inserted for the benefit of the company, and was only intended to reserve a right to the company to get out of its obligations to continue the scheme or to contribute as much to the scheme if it became unable or unwilling to go on, and that, on its true construction, it was not intended to enable the company to vary the beneficial interest of the employees in their benefits against their will. In his judgment the 1955 amendment as to nomination was not binding on the deceased employee, and the employee had not bound himself by consenting to the amendment in any way.

APPEARANCES: *E. F. R. Whitehead* (*Warren, Murton & Co.*, for *Pinsent & Co.*, Birmingham); *P. R. Oliver* (*Joynson-Hicks & Co.*, for *R. A. Rotherham & Co.*, Coventry); *A. C. Sparrow* (*Julius White & Bywaters*, for *Penman, Johnson & Ewins*, Coventry).

[Reported by Miss M. G. THOMAS, Barrister-at-Law] [1 W.L.R. 271

Queen's Bench Division

CONTRACT: SHARING HOME: INTENTION TO CREATE LEGAL RELATIONSHIP: SUFFICIENCY OF WRITTEN MEMORANDUM

Parker *v.* Clark

Devlin, J. 26th November, 1959

Action.

The defendants, *C* and Mrs. *C*, were an elderly retired married couple who, in 1955, were living in a large house which *C* owned, called "Cramond." The female plaintiff, Mrs. *P*, was Mrs. *C's* niece, and lived with the male plaintiff, *P*, her husband, who had also retired, in their cottage, "The Thimble." The plaintiffs were twenty years younger than the defendants. The defendants had very little domestic service and were not in good health, and the plaintiffs, with whom they were on very friendly terms, used often to visit them at "Cramond," sometimes with the object of assisting them when they were unwell. At the conclusion of one of these visits, *C* suggested to *P* that the plaintiffs should "come and live with us." *P* later wrote to say that the plaintiffs approved of the idea, but that it would mean selling "The Thimble." On 25th September, 1955, *C* replied in a letter which was produced at the trial, saying that the major difficulty about what was to happen to "The Thimble" could be solved by his leaving "Cramond" and its contents to Mrs. *P*, her sister and her daughter, after the death of himself and Mrs. *C*. *C* set out the maintenance expenses of "Cramond" (about £200) and continued: "If we go fifty-fifty on maintenance of house it would cost you half of the £200-odd as set out and half the running expense of food, drinks, etc., but I think it would be fair if your share of the £200 was the same as you now pay at 'The Thimble' if it is less than £200. I would pay for a daily woman four mornings a week, have a T.V. and a new car. You could sell out and pay off your mortgage and invest proceeds to increase your income. I hope your family vote for or against this will be unanimous." *P* replied in a letter which was not preserved, saying that he accepted *C's* offer and would sell "The Thimble." *P* then sold "The Thimble" and on 1st March, 1956, the plaintiffs moved to "Cramond." *C* bought a car and television set and engaged a daily woman, and the plaintiffs paid their share of the household expenses and assisted the defendants by working in the house and in the garden. In 1957 *C* made a will in accordance with the terms of the letter of 25th September, 1955. Later in 1957, however, *C* told *P* that the partnership was not working, and that the plaintiffs would have to find some other place to live. He offered to pay the expenses incurred by the plaintiffs in moving to "Cramond," and £150 in respect of the expenses of finding another home. This offer was at first refused, but the plaintiffs found that the atmosphere at "Cramond" became unbearable and in December, 1957, they left, accepting a cheque from Mrs. *C* for £150. The plaintiffs claimed damages for breach of the agreement contained in the letter of 25th September, 1955.

DEVLIN, J., said that the language of the letter of 25th September, 1955, and the reply thereto, taken with the surrounding circumstances, showed that the parties intended to enter into an agreement in the terms of letters which was binding in law, and not a mere unenforceable family arrangement. Having regard to the exceptional circumstances of the defendants' age and state of health, there was sufficient in the language of the letter to show that it was a term of the agreement that the plaintiffs should reside at "Cramond" for the period of the defendants' lives. The letter of 25th September, 1955, was a sufficient note or memorandum in writing of the agreement to satisfy the provisions of s. 40 (1) of the Law of Property Act, 1925, since, although the agreement was not in existence when it was signed, its language showed an intention to contract and amounted to a contractual offer: see *Smith* v. *Neale* (1857), 2 C.B. (N.S.) 67; and *Reuss* v. *Picksley* (1866), L.R. 1 Ex. 342. The defendants were, accordingly, in breach of contract; *P* and Mrs. *P* were jointly entitled to damages for the loss of the value of the benefits of living at "Cramond" during the joint lives of the defendants; and Mrs. *P* was entitled to damages for the loss of prospect of inheriting a share in "Cramond" under *C's* will. There would be judgment for the plaintiffs with costs.

APPEARANCES: *C. L. Hawser*, Q.C., and *Peter Lewis* (*Shelton, Cobb & Co.*); *Hugh Park* (*Pennington & Son*, for *Hooper & Wollen*, Torquay).

[Reported by GROVE HULL, Esq., Barrister-at-Law] [1 W.L.R. 286

RATING: SECTION 8: TRADE UNION HOMES

Isaacs *v.* Market Bosworth Rural District Council

Lord Parker, C.J., Cassels and Ashworth, JJ.

19th January, 1960

Case stated by Leicester county justices sitting in quarter sessions at Leicester.

A hereditament consisting of buildings and grounds used as a convalescent home and home for old people was vested in trustees. The benefits of the homes were confined to the members of a trade union and their wives. The main objects of the union were not concerned with charity or the advancement of social welfare, but subsidiary objects included the provision of benefits of the type provided by the homes. The affairs and business of the union were administered by its executive council. The trustees were appointed under a trust deed which showed that they were subject to strict control by the executive council, which was empowered to exercise supervision and control of the management of the homes and to make rules for the day-to-day running of the homes. The trustees consisted of two officers and the trustees of the union, a trustee chosen by a ballot of union members and a trustee appointed by the executive council. The funds for the purchase of the land in and erection of the buildings on the hereditament were largely provided by the union, and the union made a substantial annual grant to the trustees for the purposes of the administration of the homes. Alterations of the trust deed could be made only with the approval of the executive council. The rating authority appealed against a decision of quarter sessions that the hereditament was entitled to rating relief under s. 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955, which provides: "(1) This section applies to the following hereditaments, that is to say—(*a*) any hereditament occupied for the purposes of an organisation . . . whose main objects are . . . concerned with the advancement of . . . social welfare."

ASHWORTH, J., said that there was a very close link between the trustees and the union. The rating authority contended that the organisation for the purposes of which the hereditament was occupied was the union and not the trustees. Section 8 (1) (*a*) of the 1955 Act contained no reference to the occupier himself nor, as Lord Denning pointed out in *Skegness Urban District Council* v. *Derbyshire Miners' Welfare Committee* [1959] A.C. 807, at p. 827, did the section refer to the purposes of the occupation. If one kept in mind the provisions of the trust deed, the constitution of the trustees, the rules of the society and the terms of a pamphlet concerning the homes issued by the union, the evidence admitted only of the conclusion that the organisation for the purposes of which the hereditament was occupied was the union, and the appeal therefore succeeded.

APPEARANCES: *F. A. Amies* and *R. St. G. Calvocoressi* (*Robinson & Bradley*, for *Thomas Flavell & Sons*, Hinckley); *S. W. Templeman* (*Shaen, Roscoe & Co.*).

[Reported by GROVE HULL, Esq., Barrister-at-Law] [1 W.L.R. 277

CROWN PRIVILEGE: ENTRIES IN DETECTIVE'S DIARIES SEALED BY ORDER OF HOME SECRETARY

Auten *v.* Rayner (No. 2)

Glyn-Jones, J. 25th February, 1960

Application for production of documents.

Certain entries in the diaries of a detective in the fraud department of the Criminal Investigation Department, the third defendant in an action in which all three defendants were charged, *inter alia*, with conspiracy, false imprisonment and malicious prosecution, had been sealed by order of the Home Secretary, who claimed Crown privilege on the ground that their disclosure would be injurious to the public because they indicated or tended to identify sources of police information. During the hearing of the action application was made on behalf of the plaintiff for the unsealing of the entries, on the ground that there was evidence to show that they were not within the class of documents to which Crown privilege applied. A subpœna was also served on a member of the staff of the Director of Public Prosecutions requiring him to produce all documents in his possession relevant to the issues in the action, and naming five specific classes of documents, namely, police reports, memoranda or notes of interviews, relevant entries in his official diaries, notes of conferences, briefs and instructions to prosecuting counsel in the trial of the plaintiff at the Central Criminal Court, and proofs of witnesses accompanying the briefs. Objection was taken by the Crown, Crown privilege being claimed in respect of the entries in the diaries, the police reports and other classes of documents covered by the subpœna. In respect of the last two classes of documents a claim for professional privilege was put forward on behalf of the Director of Public Prosecutions.

GLYN-JONES, J., said that counsel had submitted that evidence had been given which suggested that some of the sealed entries in the diaries did not contain anything which would tend to identify sources of police information and he was entitled to ask for them to be unsealed. He relied on the observations of the Court of Appeal in an interlocutory appeal in this case ([1958] 1 W.L.R. 1300, at p. 1310). But privilege had not been claimed for a class of documents but for each and every entry therein which the Home Secretary had personally examined. The court had no power to go behind the Minister's certificate and look at any of the entries. As far as the subpœna *duces tecum* was concerned, it was not until the sixth week of the trial that it had been served requiring the representative of the Director of Public Prosecutions to produce police reports and other documents. If he had a discretion to set aside the subpœna on the ground that it was served so late he would do so, but on the authorities it could not be said that late service was an abuse of the process of the court. He was asked to set it aside on other grounds. Crown privilege had already been claimed for the police reports when they were in the possession of the detective. He thought that the Attorney-General was right in saying that that claim for Crown privilege still applied to prevent their production. So far as the memoranda or notes of interviews and relevant entries in official diaries were concerned the Attorney-General was entitled to come into court and make his claim for Crown privilege in the face of the court without the support of a Minister's affidavit and he had done so. Those documents were not to be produced. So far as the claim for professional privilege in respect of the last two classes of documents was concerned there was a little difficulty because the right to claim privilege was that of the client rather than the solicitor. He was not sure whether there was a precise analogy between the position of the Director and that of a solicitor, but the rules of public policy which had resulted in the establishment of a right of client and solicitor to claim privilege as to documents in the possession of the solicitor applied with equal, if not greater, force to the position of the Director of Public Prosecutions. He would order the subpœna to be set aside in respect of all classes of documents.

APPEARANCES: *Neil Lawson*, Q.C., *John F. F. Platts-Mills* and *David Turner-Samuels* (*W. H. Thompson*); *Sir Reginald Manningham-Buller*, Q.C., A.-G., and *J. R. Cumming-Bruce* (*Treasury Solicitor*); *Christmas Humphreys*, Q.C., and *H. K. Woolf* (*Herbert Baron & Co.*); *W. W. Stabb* (*Solicitor, Metropolitan Police*); *Maurice Lyell*, Q.C., and *S. H. Noakes* (*Chamberlain & Co.*).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law] [2 W.L.R. 562

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(*continued on p. xix*)

Probate, Divorce and Admiralty Division

SHIPPING: LIMITATION OF LIABILITY: ASSESSMENT OF CLAIMS: DOUBLE PROOF

Steamship Enterprises of Panama Inc., *Liverpool* (Owners) *v. Ousel* (Owners). The *Liverpool* (No. 2)

Lord Merriman, P. 21st December, 1959

Preliminary points of law.

On 8th January, 1957, the *Ousel* was sunk in the Port of Liverpool as a result of a collision with the *Liverpool*, whose owners admitted liability. On the same day the Mersey Docks and Harbour Board gave notice to the owners of the *Ousel* that the board had taken possession of the *Ousel*; that they would sell any property recovered for the purposes of defraying their expenses; and that if their expenses exceeded the proceeds of sale they would claim the difference from the owners of the *Ousel* up to the limit of her liability under the Merchant Shipping Acts, 1894 to 1954. The *Liverpool* obtained a decree limiting her liability in respect of the collision to a sum of £106,226 12s. 10d. Among the claims made against the fund were a claim by the Harbour Board for £128,382 11s. 7d. for expenses incurred in clearing the River Mersey of the wreck of the *Ousel*, and a claim by the owners of the *Ousel* for £70,765 5s. 1d., which included an item (item 22) amounting to £10,835 12s. in respect of "Mersey Docks and Harbour Board. Contingent claim of board in respect of wreck raising expenses, viz., statutory limit of *Ousel*." It was not disputed that the board's claim against the fund covered to some extent the same ground as the subject-matter of the board's statutory claim against the *Ousel*, which in turn was the subject of item 22 of the *Ousel's* claim against the fund.

Lord Merriman, P., said that it was argued that the inclusion of item 22 both in the *Ousel's* claim and in substance in the board's claim gave rise to the issue of double proof, so that either the contingent claim of the *Ousel* should be disallowed, or, if allowed, that the board should be compelled to give credit against their claim for the same amount. There was no reason why the principle of double proof should not apply to a limitation action, as well as to bankruptcy or winding up. The desirability of avoiding the payment of two dividends in respect of what was, in substance, the same debt, applied equally to a limitation fund. If the rule against double proof applied, the reality of the situation indicated that the board should be debarred from proving for a dividend for that part of their loss in respect of which they could recover in full from the *Ousel*; therefore item 22 of the claim of the *Ousel* should be allowed; and the board must give credit in their claim for an amount equivalent to the amount of item 22.

Appearances: *Eustace Roskill*, Q.C., and *H. V. Brandon* (*Waltons & Co.*); *Roland Adams*, Q.C., and *R. F. Stone* (*Weightman, Pedder & Co.*, Liverpool); *J. V. Naisby*, Q.C., and *G. N. W. Boyes* (*R. H. Bramsbury*, Liverpool).

[Reported by J. D. Pennington, Esq., Barrister-at-Law] [2 W.L.R. 541

Court of Criminal Appeal

JUSTICES: QUARTER SESSIONS: JURISDICTION: ALTERNATIVE SENTENCES

R. *v.* Dangerfield

Lord Parker, C.J., Cassels and Winn, J.J.
26th May, 1959

Appeal.

The appellant, who was aged seventeen, was convicted by a magistrates' court on two charges of taking and driving away a motor vehicle without authority, and on three charges of driving a motor vehicle while uninsured, and was committed under s. 28 of the Magistrates' Courts Act, 1952, to quarter sessions for sentence. He was sentenced under s. 20 of the Criminal Justice Act, 1948, to Borstal training and disqualified from holding or obtaining a driving licence for five years, in effect, concurrently in respect of each of the five charges.

Lord Parker, C.J., delivering the judgment of the court, said that the point of law that arose was this: The magistrates committed the appellant to sessions under s. 28 of the Magistrates' Courts Act, 1952. It was, the court thought, clear that when that was done the powers of sessions under s. 20 of the 1948 Act were limited to sentencing the man to Borstal training or—and it was an alternative—to dealing with him in any manner in which the court of summary jurisdiction might have dealt with him. Accordingly, it was said that sessions could not at one and the same time sentence a man to Borstal training and disqualify him. That, the court felt, was perfectly clear; but in the present case there were no less than five charges, and although in form the sentence of the chairman was wrong because he, in effect, gave the sentence of Borstal training and disqualification in respect of each concurrently, yet it was within his power, and therefore within the power of this court, to provide that on four of the charges the appellant should be sentenced to Borstal training concurrently, and that on the fifth charge the sentence should be one that the magistrates could have inflicted, namely, disqualification. Accordingly, this court would vary the sentence to one of Borstal training on four of the charges concurrently, and five years' disqualification on the other. One further matter was often overlooked. In the case of a young man of seventeen, as the appellant was, it was possible for magistrates to commit him under s. 29 of the Magistrates' Courts Act, 1952. That was a general committal, not merely for Borstal, and then under s. 29 of the Criminal Justice Act, 1948, sessions would have complete power to deal with the matter and were not limited in the way they were where their powers were derived from s. 20 of the Act. Accordingly, as this court had said before, magistrates should remember that in the case of a boy over seventeen it was simpler to commit him under s. 29, rather than under s. 28, of the Magistrates' Courts Act, 1952.

Appearances: *M. D. I.. Worsley* (*Registrar, Court of Criminal Appeal*).

[Reported by Miss Eira Caryl-Thomas, Barrister-at-Law] [1 W.L.R. 368

Societies

The Bradford Incorporated Law Society held its eighty-fourth annual general meeting in Bradford on 9th March. The following officers were elected: president, Mr. T. A. Last, LL.B.; vice-presidents, Mr. J. K. Read and Mr. C. P. Pickles, LL.B.; joint hon. secretaries, Mr. C. P. Pickles, LL.B., and Mr. R. W. T. Vint, M.A. (Oxon).

The Selden Society, founded in 1887 "to encourage the study and advance the knowledge of the history of English law," will hold its seventy-fourth annual general meeting in Lincoln's Inn, London, W.C.2, on 28th March at 4.30 p.m.

Wills and Bequests

Mr. Frederick Horace Cooke, solicitor, of Kilve, Somerset, left £76,949 net.

Mr. H. H. Fyfe, solicitor, of Glasgow, left £42,017 net.

Sir Alfred Henry Lionel Leach, Q.C., left £24,719 net.

Mr. Eric Oliver Savery, solicitor, of Kidderminster, left £19,639 net.

Mr. C. S. Weir, solicitor, of Virginia Water, Surrey, left £51,306 net.

At the Theatre

"INHERIT THE WIND"

At the St. Martin's Theatre

On a hot July day in 1925 there opened at the Eighteenth Tennessee Circuit Court in Dayton, Tennessee, one of the most incredible trials of this century, labelled in legal history as the "monkey trial." A state law passed shortly before that time had made it unlawful for any teacher in a state-supported educational establishment "to teach any theory that denies the story of the divine creation of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals." A young high school teacher, Thomas Scopes, was persuaded to assist in the bringing of a test case by teaching the theory of evolution in his class. He was duly indicted. William Jennings Bryan, an ardent and famous fundamentalist, volunteered to help the prosecution and travelled from Florida to do so. The American Civil Liberties Union sent a team of defence counsel which included the renowned Clarence Darrow, then in his forty-eighth year of legal practice. The defence had available in the court well-known scientists, including several zoologists, an anthropologist and a geologist, whom they wished to call to give expert evidence to show what evolution was and that any reasonable interpretation of the Bible was not in conflict with any story of creation. The court ruled against the introduction of this expert testimony but gave permission for affidavits recording such evidence to be admitted. After this ruling the climax of the trial came when the defence was permitted to call William Jennings Bryan himself as an expert witness on the Bible. The accused was found guilty of infringing the anti-evolution law and fined $100. Pending an appeal, bail was granted in the sum of $500 for which the *Baltimore Sun* acted as bondsman. Bryan died a few days after the end of the trial. Upon appeal the verdict was quashed. Such are the facts of the case which provides the inspiration for and theme of the play called "Inherit the Wind" by Jerome Lawrence and Robert E. Lee.

In the programme there is an express disclaimer that the play is history. Yet many of the most effective lines in the lively exchanges between the principal defence counsel (Darrow, called Henry Drummond in the play) and Bryan (*sub nom.* Matthew Harrison Brady) stem from the exchanges actually made; questions about Jonah and the whale, about the belief of the fundamentalist in Joshua's having made the sun stand still and in the creation according to Genesis, amongst others brought out in the theatre, were really asked in court: a protest was made there also about the display a few feet away from the jury of a large sign saying "Read your Bible."

There is more to the play than can be found by a study of the transcript of the proceedings of the trial. The atmosphere of fanaticism was skilfully created by a relatively large cast of townspeople, hawkers and spectators. Outstanding amongst the minor roles was Paul Endersby as Elijah, the Bible-seller; his difficult hand movements and posture in particular were masterly and carried conviction. Noel Coleman portrayed authoritatively the clergyman who knew not the meaning of charity and whose daughter (Elizabeth Shepherd) was in love with the accused schoolmaster (John Gorrie). The mayor (C. Denier Warren) and the judge (Peter Carlisle) effectively added the right atmosphere in their respective spheres. As a contrast to the religious fervour displayed by the fundamentalist (Henry McCarthy) and his wife (Brenda Duncan) it would be difficult to improve on the cynicism of the journalist (Daniel Moynihan) representing the newspaper financing the defence. The evening, however, was made by the outstanding performance of Andrew Cruickshank as Drummond, the defence attorney; he was able to indicate this character's thoughts and feelings; all the time one had the impression of the shock that the liberal man of the world felt in the presence of the small minds of the small town, minds so bigoted that they could not even accept the possibility of there being two sides to a question; this attitude was also skilfully illustrated by the last lines of the local clergyman's daughter as acted by Miss Shepherd.

All the cast spoke clearly. We thoroughly enjoyed our evening and have no hesitation in recommending this play as good and stimulating entertainment.

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

Progress of Bills

Read Second Time:—

First Offenders (Scotland) Bill [H.C.] [17th March.

Read Third Time:—

Cinematograph Films Bill [H.C.] [15th March.
Essex County Council (Fullbridge, Maldon) Bill [H.L.] [15th March.
European Free Trade Association Bill [H.C.] [16th March.
Horticulture Bill [H.C.] [17th March.
Local Employment Bill [H.C.] [15th March.

In Committee:—

Requisitioned Houses Bill [H.C.] [17th March.
Wages Arrestment Limitation (Amendment) (Scotland) Bill [H.C.] [17th March.

HOUSE OF COMMONS

A. Progress of Bills

Read First Time:—

Glasgow Corporation Consolidation (General Powers) Order Confirmation Bill [H.C.] [17th March.

To confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Glasgow Corporation.

Oil Burners (Standards) Bill [H.C.] [15th March.

To make provision for minimum standards of efficiency and safety in respect of oil-burning appliances; and for purposes connected therewith.

Read Third Time:—

Consolidated Fund Bill [H.C.] [16th March.

To apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March,

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Basingstoke.—CURTIS & WATSON, Chartered Land Agents. Surveyors, Auctioneers and Valuers. Tel. 2255/6. And at Alton and Hartley Wintney.

Basingstoke.—SIMMONS & SONS, Surveyors, Valuers, Estate Agents and Auctioneers. Tel. 199.

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Hartley Wintney.—CURTIS & WATSON, Chartered Land Agents Surveyors, Auctioneers and Valuers. The Estate Offices. Tel. 296/7. And at Alton and Basingstoke.

Havant, Cosham, Portsmouth, Hayling Island.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, 5 West Street, Havant. (Tel. 1244/5.) 82 High Street, Cosham. (Tel. 76427/8.) Elm Grove, Hayling Island. (Tel. 77131 and 77148.)

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Lymington and New Forest.—HEWITT & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. High Street. Tel. Lymington 2323/4.

New Milton and Barton-on-Sea.—HEWITT & CO. F.A.I. New Milton. Tel. 43.

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Portsmouth.—P. G. LUDLOW, Angerstein Road, North End. Tel. 61441/2.

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Berkhamsted and Hemel Hempstead.—R. J. AITCHISON, F.A.I., M.R.San.I.

Cheshunt, Cuffley, Waltham Cross and District.—ROBERT TIDEY & SON, Waltham Cross. Tel. 22964.

(*continued on p. xx*)

HERTFORDSHIRE (*continued*)

Hertford.—NORRIS & DUVALL, F.R.I.C.S., F.A.I., 106 Fore Street. Tel. 2249.

Hitchin.—J. R. EVE & SON, 5 Bancroft. Surveyors, Land Agents, Auctioneers and Valuers. Tel. 2168.

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Beckenham.—JOLLYE & WOOD, 4 The Broadway, Croydon Road. Tel. Beckenham 1430.

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Blackpool and Fylde Coast.—J. ENTWISTLE & CO., Auctioneers, Valuers and Estate Agents, Station Chambers, 2 Dickson Road, Blackpool. Tel. 20093/4.

Grange-over-Sands.—MICHAEL C. L. HODGSON, Auctioneers and Valuers. Tel. 2253.

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Liverpool and District.—JOS. RIMMER & SON, 48 Castle Street, Liverpool, 2. Tel. Central 3068. Chartered Surveyors, Chartered Auctioneers and Estate Agents.

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Manchester.—STUART MURRAY & CO., Auctioneers, etc., 64a Bridge Street. Tel. Blackfriars 5747. And at Altrincham.

Manchester and Oldham.—LESLIE D. CLEGG MORGAN & CO., Chartered Surveyors, Specialists in Town Planning, Rating and Compensation, Prudential Buildings, Union Street, Oldham. Tel. MAin (Oldham) 6401/3. And at 65 Princess Street, Manchester, 2. Tel. Central 7755.

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Rochdale and District.—SHEPHERD LUMB & CO., Auctioneers, etc., The Public Hall, Baillie Street. Tel. 3826.

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Harrow.—P. N. DEWE & CO. See "London Suburbs" Section. Established 1925.

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Harrow.—Messrs. JOHN SEARCY (J. H. Searcy, M.Inst.R.E., F.A.I., Chartered Auctioneer and Estate Agent; J. Gray, F.A.L.P.A., Incorporated Auctioneer and Estate Agent), 21 College Road, Harrow. Tel. Harrow 9323-4. Adjoining Harrow-on-the-Hill Metro Station.

Harrow and District.—BARR & MEAD (C. Grainger, F.A.L.P.A., M.R.San.I.), 202 Northolt Road, S. Harrow. (Tel. Byron 1023 (5 lines)), and 15 College Road, Harrow (Tel. Harrow 5178 (3 lines)). Also at Ruislip and Pinner.

Hayes.—KEVIN & FIELD, LTD. (Lister S. Camps, F.F.S., F.V.I., M.R.S.H.), Grange Chambers, Uxbridge Road. Tel. Hayes 3691/2.

Hounslow.—ROPER, SON & CHAPMAN, Auctioneers, Surveyors, etc., 162 High Street. Tel. HOU 1184.

Moor Park and Northwood.—E. BECKETT, F.A.I., Surveyor, Chartered Auctioneer and Estate Agent, MOOR PARK ESTATE OFFICE, Moor Park Station, Northwood. Tel. Northwood (NH2) 4131. And at Harrow, North Harrow and Sudbury, Wembley.

Northwood.—GILBERT LUCK, F.A.L.P.A., Surveyors and Valuers, 58 Green Lane, Northwood. Tel. 2352/3/4, and 111 Pinner Road, Northwood Hills.

Northwood and Pinner.—MANDLEY & SPARROW, Auctioneers, Valuers, etc., 25 Maxwell Road, Northwood. Tel. 3295/6. And branches in Hertfordshire.

Northwood and Pinner.—SWANNELL & SLY, 3 Maxwell Road, Northwood. Tel. 19. Valuers, Auctioneers, etc.

Pinner and District.—BARR & MEAD (C. Grainger, F.A.L.P.A., M.R.San.I.), 2 High Street, Pinner. PINner 7727 and 7800. Also at South Harrow, Harrow and Ruislip.

Pinner (Hatch End).—BRODIE, MARSHALL & CO., Auctioneers, Valuers and Estate Agents, 339 Uxbridge Road, Hatch End. Telephone Hatch End 2238 and 2239.

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Whitchurch.—JOSEPH WRIGHT, Auctioneers, Valuers and Estate Agents, 15 Watergate Street, Whitchurch. Tel. 62.

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Crewkerne—25 miles radius.—TAYLOR & CO., Auctioneers, Valuers, Surveyors, Estate Agents. Tel. 546.

Taunton and District.—C. R. MORRIS, SONS AND PEARD, Land Agents, Surveyors, Valuers, Auctioneers, 6a Hammet Street. Tel. 2546. North Curry. Tel. 319.

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one thousand nine hundred and sixty, and one thousand nine hundred and sixty-one.

Road Traffic Bill [H.L.] [15th March.

B. QUESTIONS

SCHEDULE A

Sir E. BOYLE said that there were about 6m. owner-occupiers of dwellings assessed for Schedule A income tax annually. [14th March.

STREET BETTING ACT, 1906

Mr. R. A. BUTLER said that the following table showed the numbers of persons convicted at magistrates' courts in the years 1954 to 1958 under s. 1 of the Street Betting Act, 1906, and the numbers of offenders sentenced to imprisonment:

Year	*Number Convicted*	*Number Imprisoned*
1954	6,942	2
1955	6,311	4
1956	6,492	—
1957	7,068	7
1958	6,304	5

In addition a very few cases might have been dealt with on indictment, but the information was not available for the years 1954 to 1957. There were no such cases in 1958. [14th March.

MONOPOLIES COMMISSION (EXPENSES OF WITNESSES)

Mr. J. RODGERS said that under s. 8 (4) of the Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948, the Monopolies Commission had discretion to pay the expenses of any witness required to appear before it. The extent to which the Commission used its discretion was for it to decide. He understood that it had not refused to make payments in any case in which it had been asked to do so. [15th March.

LAW REFORM (VARIATION OF TRUSTS ACT)

THE LORD ADVOCATE said that the Law Reform Committee for Scotland was at present considering the law relating to: (*a*) the powers of trustees to sell, purchase or otherwise deal with heritable property, and (*b*) the variation of trust purposes. He expected to receive its report very shortly after Easter. [16th March.

STATUTORY INSTRUMENTS

Agriculture (Poisonous Substances) (Extension) Order, 1960. (S.I. 1960 No. 398.) 5d.

County Court Districts (Stow on the Wold and Parish of Mickleton) Order, 1960. (S.I. 1960 No. 361.) 5d.

Draft **Detention Centre** (Scotland) Rules, 1960. 1s.

Fishguard – Aberystwyth – Dolgelley – Caernarvon – Bangor (Menai Suspension Bridge) Trunk Road (Llanelltyd Diversion) Order, 1960. (S.I. 1960 No. 366.) 5d.

Hydrocarbon Oil Duties (Drawback) (No. 1) Order, 1960. (S.I. 1960 No. 380.) 5d.

Import Duties (General) (No. 2) Order, 1960. (S.I. 1960 No. 381.) 5d.

Liverpool Pilotage (Amendment) Order, 1960. (S.I. 1960 No. 379.) 5d.

London Traffic (Miscellaneous Prohibitions and Restrictions) (Amendment) Regulations, 1960. (S.I. 1960 No. 395.) 5d.

London Traffic (Prescribed Routes) (Greenwich) Regulations, 1960. (S.I. 1960 No. 391.) 4d.

Parking Places (St. Marylebone) (No. 1, 1959) (Amendment No. 3) Order, 1960. (S.I. 1960 No. 385.) 5d.

Perth–Aberdeen–Inverness Trunk Road (East End, Nairn, Diversion) Order, 1960. (S.I. 1960 No. 393.) 5d.

Perth–Aberdeen–Inverness Trunk Road (Nairn Relief Road) Order, 1960. (S.I. 1960 No. 392.) 5d.

Police (Common Police Services) (Scotland) Order, 1960. (S.I. 1960 No. 370.) 4d.

Police (Scotland) Amendment Regulations, 1960. (S.I. 1960 No. 369.) 4d.

Stopping up of Highways Orders, 1960:—

City and County Borough of Carlisle (No. 1). (S.I. 1960 No. 363.) 5d.
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County of Cornwall (No. 4). (S.I. 1960 No. 373.) 5d.
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County of Oxford (No. 2). (S.I. 1960 No. 376.) 5d.
County of Southampton (No. 13) Order, 1958 (Amendment). (S.I. 1960 No. 364.) 5d.
County of Stafford (No. 4). (S.I. 1960 No. 357.) 5d.
County of Wilts (No. 4). (S.I. 1960 No. 377.) 5d.
County of York, West Riding (No. 2). (S.I. 1960 No. 358.) 5d.

SELECTED APPOINTED DAYS

March

14th
- Appeal Aid Certificate Rules, 1960. (S.I. 1960 No. 258.)
- Criminal Appeal (Fees and Expenses) Regulations, 1960. (S.I. 1960 No. 259.)
- Legal Aid and Advice Act, 1949, ss. 21, 22 and 23.
- Poor Prisoners' Defence (Defence Certificate) Regulations, 1960. (S.I. 1960 No. 260.)
- Poor Prisoners' Defence (Legal Aid Certificate) Regulations, 1960. (S.I. 1960 No. 261.)
- Poor Prisoners' Defence (Legal Aid Certificate) (Recovery of Costs) Regulations, 1960 (S.I. 1960 No. 336.)

21st
- National Insurance (Earnings) Regulations, 1960. (S.I. 1960 No. 278.)

28th
- Legal Aid and Advice Act, 1949, ss. 2–6, Sched. III, ss. 12, 14–16, 17 (1), (2).
- Legal Aid (General) Regulations, 1960. (S.I. 1960 No. 408.)

April

1st
- County Court Districts (Stow on the Wold and Parish of Mickleton) Order, 1960. (S.I. 1960 No. 361.)
- Nuclear Installations (Licensing and Insurance) Act, 1959.
- Tithe Redemption Commission (Transfer of Functions and Dissolution) Order, 1959. (S.I. 1959 No. 1971.)

THE LAW SOCIETY

LUNCHEON PARTY

Sir Sydney Littlewood, president of The Law Society, gave a luncheon party on 21st March at 60 Carey Street, W.C. The guests were: the Mayor of Holborn; Lord Evershed; Sir Noel Bowater; Master Adams; Mr. W. T. C. Skyrme; Mr. Kenneth Adam; Sir Charles Norton; Mr. C. J. Malim and Sir Thomas Lund.

THE SOLICITORS ACT, 1957

On 3rd March, 1960, an order was made by the Disciplinary Committee constituted under the Solicitors Act, 1957, that there be imposed on GEORGE OSWALD MEECH, of 29–30 High Holborn, London, W.C.1, and of 31 Gerard Road, Barnes, London, S.W.13, a penalty of £250, such penalty to be forfeit to Her Majesty and that he do pay to the complainant his costs of and incidental to the application and inquiry.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Report on Chancery

Sir,—Professor Wheatcroft's "Searchlight on the Chancery Division" is indeed a sign that the "wind of change" is blowing. His arguments for putting the procedure of the High Court on a "business basis" by using the post, the telephone and proper control of staff, are elementary and unanswerable.

The important thing is that solicitors as a whole should support him in creating the pressure of public opinion necessary to make sure that the recommendations of the Harman Committee—and Professor Wheatcroft's wider suggestions—are put into effect. It is not enough to grumble outside the Registrar's door about the incredible delays and frustrations of High Court procedure. Since 1885 these questions have been raised and shelved—simply because our profession was too apathetic—or misguidedly self-interested—to give reform recommendations the support they deserved and needed. Outside critics of "the Law's delays" are easily silenced because they do not have enough technical experience to be accurate on details. We, however, have failed the public—our clients—through a "gentlemen's agreement" of silence.

If we do not support the reforms proposed with ideas, as well as enthusiasm, this time, we deserve to be nationalised.

MICHAEL ROSE.

Barnet,
Herts.

Points in Practice

Jurisdiction—POWERS OF COMMISSIONERS FOR OATHS

Sir,—Lest it may have escaped the notice of some of my notarial brethren may I be permitted to comment on your interpretation of the authorities relative to the jurisdiction of the ordinary (cf. special) Commissioner in "Points in Practice" on 11th March (p. 215)?

Far be it from me to take objection to the law of your answer, which, if anything, must have tended to mislead many readers who are neither notaries public nor *ad hoc* Commissioners for Oaths. I refer to your application of the authorities to the subscriber's cases (*a*) and (*b*), case (*c*) being an exception to the rule that notarial attestation is required on documents coming from "furrin parts," the Irish courts being prepared to accept that of an ordinary Commissioner.

In his question, the subscriber in effect wondered if his authority . . . that a Commissioner "may take any affidavit for the purpose of any court or matter in England . . ." entitled him to take an affidavit (*a*) for the use of the American authorities (he does not say where), and (*b*) for the use of a foreign government. Unless there exists a governmental agreement or concession, in neither case can this be so. Yet although the matters specified were limited to (*a*) American internal matters, whether in the country or not, and (*b*) a claim for sequestered property (against a foreign government) you considered that the Commissioner would be so entitled "if the proceeding were brought in any court . . . in England." With respect, this proviso can only be described as a "red herring" and misleading, otherwise I concur in your reply. *A fortiori*, rare indeed would it be for such proceedings to be brought when a simple power of attorney (notarially attested!) will enable the proceedings to be brought in the *lex situs*.

N. P.

Upminster,
Essex.

[*Our contributor writes:* I am sorry that N.P., of Upminster, found part of the answer misleading, but I am grateful to him for clarifying the point which I sought to make.]

PRINCIPAL ARTICLES APPEARING IN VOL. 104

Practice Note

QUEEN'S BENCH DIVISION

POWERS OF ATTORNEY BY TRUSTEES

The masters of the Queen's Bench Division have agreed that the practice under s. 25 (4) of the Trustee Act, 1925, is to require a statutory declaration by the donor to be filed with each power of attorney that is filed, and that no exception to this practice can be made.

2nd March, 1960.

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(*continued on p. xxii*)

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Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & PARTNERS, F.A.I., 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 2 lines). And at Keighley.

YORKSHIRE (continued)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I., Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).

Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 33991/2.

Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 🏛 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street. Tel. 30429.

Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.

Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.

Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.

Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

Wrexham, North Wales and Ellesmere, Shropshire.—WINGETT & SON, Chester Street, Wrexham. Tel. 2050.

Classified Advertisements

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Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

LANCASHIRE COUNTY COUNCIL

Two ASSISTANT SOLICITORS required in the Clerk of the County Council's Department. Salary £1,065–£1,200. Commencing salary according to age and experience. Appointment is superannuable and subject to certificate of fitness. Applications, stating age, details qualifications and experience and the names of two referees to the Clerk of the County Council (E), County Hall, Preston, by 13th April, 1960.

COUNTY BOROUGH OF SOUTHAMPTON

APPOINTMENT OF PROSECUTING SOLICITOR

Salary—A.P.T.V. (£1,220 to £1,375). No testimonials, but names and addresses of two referees. Closing date—29th March, 1960.

A. NORMAN SCHOFIELD,
Town Clerk.

Civic Centre,
Southampton.

CITY OF CARLISLE

CARLISLE TECHNICAL COLLEGE

Applications are invited for a "Grade B" Assistant in Law and Accounting, to teach Law and Accounting at all levels, chiefly with part-time day students. Applicants should be graduates or corporate members of an appropriate professional body. Salary £700 × £27 10s.—£1,150. Allowance will be made on the scale for approved experience and qualifications.

This is a new post that has arisen due to the expansion of the work of the College. Application form and further particulars from the Director of Education, 19 Fisher Street, Carlisle. Closing date 12th April.

COUNTY BOROUGH OF GREAT YARMOUTH

ASSISTANT SOLICITOR required. Salary Grade £835—£1,165 per annum according to experience. Housing accommodation available. Removal expenses on approved scale. Previous Local Government experience not essential. Position offers good opportunity for experience in general work of a municipal office.

Applications by letter, giving details and including names of two referees, must reach the undersigned by 4th April, 1960. Canvassing disqualifies.

FARRA CONWAY,
Town Clerk.

Town Hall,
Great Yarmouth.

TRENT RIVER BOARD

LEGAL AND ADMINISTRATIVE ASSISTANT

Applications are invited for appointment of a Legal and Administrative Assistant in the Clerk's Department. N.J.C. service conditions—salary within A.P.T. Grades II–III (£765—£1,065).

Particulars of duties, etc., and form of application may be obtained (not later than 8th April, 1960), from the Clerk of the Board, 206 Derby Road, Nottingham.

NATIONAL COAL BOARD DURHAM DIVISION

CONVEYANCING CLERK

Applications are invited from unadmitted or admitted men for the above post in the Divisional Legal Department in Newcastle upon Tyne. Salary will be according to qualifications and experience and either on the G.A.G. 5 scale of £850 × £30—£1,100 or the L.G. 6 range of £850–£950. A Superannuation Scheme (with possibility of transfer from existing schemes in certain cases) is in operation. Applicants must have wide experience of conveyancing work and require little supervision.

Apply within seven days quoting SG/240/5(60) and giving details of age, education, qualifications and experience to: National Coal Board, 7 Side, Newcastle upon Tyne, 1.

APPOINTMENTS VACANT

CITY of London Solicitors require a young solicitor of above average ability to train for company and commercial work. Good salary with scope for considerable advancement. Luncheon vouchers and pension scheme.—Write details, age and experience to Box 182, Reynells, 44 Chancery Lane, W.C.2.

ASSISTANT Solicitor, Public School, Honours and University Degree, required by Bolton Solicitors with busy progressive practice. Excellent opportunity for experience in all branches of the law and promise of partnership after successful probationary period.—Box 6479, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor required to take charge of office in South Coast town. Excellent prospects with a possibility of future partnership. Mainly Conveyancing and Company Work. Possibility of accommodation.—Box 6480, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

FOREST GATE, E.7., ASSISTANT SOLICITOR for General Practice. Substantial salary will be paid. Prospects of partnership.—Box 6481, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END Solicitors require experienced Conveyancer to take charge of rapidly expanding first class general conveyancing department. Top salary for right man.—Box 6482, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG solicitor required to take charge of busy branch practice in West Midlands. Conveyancing and litigation. Slight supervision. Commencing salary about £1,000 p.a. with prospects of partnership. Successful applicant will in due course be granted use of car.—Box 6484, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Clerk (25–30) required by busy Eltham (Kent) Solicitors for progressive and interesting post. Pleasant atmosphere. Excellent opportunity for the right man.—Box 6485, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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The Board of this medium sized Public Company is seeking a young man of character, presence and initiative to fill the position of ASSISTANT SECRETARY at the Head Office in Central London. The organisation is progressive and expanding and there are prospects for the successful applicant providing he is qualified. The appointment is one in which the Company's Board will take a personal interest. A commencing salary of up to £1,500 p.a. is offered dependent upon age and experience and there is a contributory pension scheme in operation. Candidates should be resident in the London area. Applications which will be treated in confidence should give age, fullest possible details of history and experience to date and present salary and should be addressed to F. I. Alexander, Universal House, Southwark Bridge, London, S.E.1, marked Personal.

MID-WALES SPA.—Vacancy for retired Solicitor whole or part-time. Also locum tenens.—Box 6478, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LUTON.—London Solicitors opening branch office require energetic and able Conveyancing Assistant, admitted or unadmitted, to take full charge as soon as possible. Immense scope and prospects.—Box 6486, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END Solicitors require Senior Clerk for administration of trusts, preparation of income tax repayment claims and able to supervise book-keeper. Salary according to experience. Holiday arrangements honoured.—Box 6487, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST END Solicitors (small busy firm) require Conveyancing Managing Clerk aged 30–40 years. Congenial and progressive post with partnership prospects for qualified man. Fullest details please.—Box 6488, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BIRMINGHAM.—Assistant Solicitor or Unadmitted Clerk required for Conveyancing Department. Commencing salary up to £1,500 per annum.—Box 6489, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor with some experience of Probate and Conveyancing required by City firm. Write stating age, experience and salary required.—Box 6490, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

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APPOINTMENTS VACANT—*continued*

CONVEYANCING Clerk required by West End firm of Solicitors to work under supervision of partners. Salary by arrangement.—Box 6483, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LONDON, E.15. Solicitors require capable and experienced Conveyancing and Probate man. Good salary for right man.—Apply Box 6495, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CARLISLE. Assistant Solicitor required for busy practice, capable of undertaking work without much supervision. Experience of advocacy and litigation an advantage. Newly qualified man not necessarily barred. Salary by arrangement according to experience.—SAUL & LIGHTFOOT, 21 Castle Street, Carlisle.

A MAJOR Steel Company requires an Assistant in their Solicitors Department in London. Applicants should be solicitors aged between 27 and 35 and should have conveyancing and commercial experience. The commencing salary will not be less than £1,000. —Applications should be addressed to Box 6496, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR, preferably aged 26–36 years required as Chief Assistant to the Solicitor of a large Building Society. The salary will be progressive, commencing at £1,000 to £1,500 per annum according to age and experience. Applicants must be sound conveyancers, preferably with some knowledge of common law, able to take charge of a considerable volume of work with little supervision and willing to accept responsibility. Removal expenses not exceeding £50 will be paid if necessary. A contributory pension scheme (which includes provision for widow and dependent children) is in operation, and the successful applicant will be required to undergo a medical examination. Applications, endorsed "Assistant," should give full particulars of age, education and experience.

K. F. SOLLOWAY,
Welford House,
Welford Place,
Leicester.

ASSISTANT Solicitor required by sole principal in Essex town with view to partnership. Practice is young, small (staff of 3), at present grossing £6,000 annually and expanding steadily. Mainly conveyancing but must be prepared to handle all types of work.—Box 6497, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BRENTWOOD, ESSEX.—Busy Solicitors require assistance on both Conveyancing and Common Law sides. Would suit keen and competent unadmitted man specialising in either branch (preferably under 30) or young Solicitor with all-round experience and interest in advocacy. Write stating age, experience and salary required.—Box 6498, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS require experienced Conveyancing Clerk, preferably unadmitted. Salary £1,200 per annum, Lincolnshire. Apply with full particulars.—Box 6499, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PEMBROKESHIRE Solicitors require experienced shorthand typist. Good salary and prospects.—Box 6467, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MARKET Town Worcestershire.—Assistant Solicitor required. Good salary and prospects.—Box 6465, Solicitors' Journal Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PEMBROKESHIRE Solicitors require conveyancing and general managing clerk (male or female). Commencing salary £750 to £1,250 according to ability.—Box 6466, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST MIDLANDS.—Conveyancing assistant (admitted or unadmitted) required for small general practice; opportunities for advocacy and litigation, if desired; progressive post with excellent prospects; salary approximately £1,000 per year.—Box 6412, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EAST MIDLANDS County Town. Assistant Solicitor required by busy general practice. Mainly Conveyancing and Probate but some Advocacy required. Newly admitted man considered. Write with full particulars.—Box 6471, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BEDFORDSHIRE.—Conveyancing Clerk required by old established practice. Supervision given if necessary. Good prospects. Write stating age, experience and salary required.—Box 6472, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor required to take over and develop litigation in busy Conveyancing practice Norfolk Coast; good prospects to capable and efficient Advocate. Please write stating age, experience and salary required.—Box 6475, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY Solicitors require unadmitted Probate Clerk.—Write giving particulars with age, experience and salary required, to Box 6350, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING and Probate Manager (admitted or unadmitted) required for S.E. London Solicitors; 9.30 to 5.30 and alternate Saturdays. Own room and typist. Write stating salary required.—Box 6413, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS having offices in Haywards Heath and East Grinstead require assistant solicitor or conveyancing managing clerk (male or female) to be based in Haywards Heath; good salary and car allowance; bonus scheme.—Write Box 6439, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT solicitor required for practice in Yorkshire, principally to manage branch office; applicants should have had some experience since admission and be prepared to undertake advocacy; prospects of partnership.—Apply Box 6440, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCER (Preferably unadmitted) required by S.W. Middlesex firm. Commencing salary £1,250. Good prospects. Pension Scheme. Box 6405, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY solicitors require experienced conveyancing clerk; hours 9.30—5, no Saturdays; pension scheme. Please state age, experience and salary required.—Box 6319, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Managing Clerk, admitted or unadmitted, required for London South West Suburb—good prospects for advancement for keen and hard worker—please state age, experience and salary required.—Box 6355, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor recently qualified wanted for old-established general practice in Barnsley; willing to undertake advocacy. —Box 6396, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane E.C.4.

YOUNG Solicitor required for London Suburban Conveyancing practice—must be hard worker and capable of acting independently—good prospects of partnership.—Box 6354, Solicitors' Journal, Oyez House, Breams Buildings, E.C.4.

BUSY Partner requires able Assistant Solicitor for general work. Good prospects of partnership and pleasant offices near Waterloo. Good salary paid according to experience.—Box 6454, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Clerk with some conveyancing required for South London Solicitors. Excellent prospects for the right man and good salary and conditions offered.—Box 6455, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

APPOINTMENTS WANTED

CHIEF cashier (36) requires position Bath, Bristol area; fully conversant all books of account and cashiers' duties; experience staff control and office management; some knowledge Income Tax and Probate.—Box 6441, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANAGING Clerk (unadmitted) desires change. Extensive knowledge Conveyancing Planning and Rating with experience in private practice and industry. Please supply details including salary. Permanent position essential.—Box 6468, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (middle-aged), at present occupying temporary appointment with busy London firm, following recent return from legal appointment abroad, seeks permanent post in country or suburban practice, where conveyancing, company, commercial and advocacy experience is required; salary by arrangement.—Box 6469, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (38), Bachelor, public school, 10 years experience, conveyancing, litigation, trusts, probate and company law seeks change with prospects full partnership, capital available.—Box 6491, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (45), Commissioner, public school man, seeks appointment with predominately probate and conveyancing firm where prospects of partnership. Not London or North. Capital available.—Box 6500, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR, LL.B. (35), seeks post preferably London or Home Counties. Conveyancing, Probate and general experience. Accustomed full responsibility and management. Realistic salary and some prospects.—Box 6501, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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Classified Advertisements

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APPOINTMENTS WANTED—*continued*

ADVOCATE.—Very experienced Solicitor-Advocate, available early 1961 after eight years overseas, seeks appointments where there is scope for his particular abilities.—Box 6492, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LOCUM.—Solicitor of wide experience available, London or suburbs, from mid-May.—Box 6493, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PRACTICES AND PARTNERSHIPS

ADMITTED 1941, since admission wide general experience with corporation, requires urgently partnership in South or South-West; short preliminary period as assistant solicitor at agreed salary not objected to.—Box 6444, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR wishes to purchase small or medium size general practice within 100 miles of London an advantage but not essential provided there is scope for development.—Box 6494, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

OPENING in Bedfordshire for young Solicitor.—Apply Hooper & Son, Chichester House, Chancery Lane, W.C.2.

SOLICITOR, admitted October, 1954, good general experience, seeks partnership or acquisition of practice. London or Suburbs. Capital available if required.—Box 6502, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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ACTIVE enquiries in hand for good-class shop investments, blocks of flats, freehold ground rents and weekly investments of all types.—Details in confidence to Cowdrey, Phipps & Hollis, F.A.L.P.A., Investment Department, 360 Neasden Lane, London, N.W.10. (Dollis Hill 6671/5.)

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THE Costs Department of The Solicitors' Law Stationery Society, Ltd., is available to the profession for the prompt preparation of all BILLS OF COSTS by expert draftsmen.—For full details apply The Manager, Costs Department, Oyez House, Breams Buildings, Fetter Lane, E.C.4. (CHAncery 6855.)

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CAR FINANCE.—Special terms for the profession including Free Life Assurance. Write for particulars to Chancery Lane Finance Company Limited, 36 Seymour Street, London, W.1, or telephone AMB 4484.

TO SOLICITORS, SURVEYORS, ETC.—Busy, experienced and successful mortgage and investment brokers would like to hear from those who could introduce funds for property conversions, 1st or 2nd mortgage at liberal interest, bridging operations, building finance, large financial transactions, short term transactions, etc., for advertisers' applicants.—Welsford, Morgan & Co., 986 London Road, Thornton Heath, Surrey. Tel.: THO 2135. (Established half a century.) Keep this advert.

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RUSHGROVE AGENCY can now undertake transcriptions from ORDINARY TAPE RECORDERS as well as STENORETTES and EMIDICTAS. Also COPYING, ENGROSSING, DUPLICATING, ABSTRACTING, etc. 561 Watford Way, London, N.W.7. MILl Hill 7242.

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Classified Advertisements

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BOOKS AND PERIODICALS

THE "CORDEX" SELF-BINDING CASE specially designed to contain issues of THE SOLICITORS' JOURNAL is now available price 14s., post free. Capacity 26 issues and index. Issues easily inserted or removed.—The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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